

# **EXHIBIT 5**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

IN RE:

ETHICON, INC., PELVIC REPAIR                      MDL NO. 2327  
SYSTEM,  
Products liability litigation

THIS DOCUMENT RELATES TO ALL CASES

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VOLUME II

VIDEOTAPE DEPOSITION UNDER ORAL EXAMINATION OF

BARTHOLOMEW P. PATTYSON

MORRISTOWN, NEW JERSEY

JULY 11, 2013

- - -

REPORTED BY: SILVIA P. WAGE, CCR, CRR, RPR

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<p>1 Transcript of VOLUME II of the videotape  2 deposition of BARTHOLOMEW P. PATTYSON, called for  3 Oral Examination in the above-captioned matter, said  4 deposition taken by and before SILVIA P. WAGE, a  5 Certified Shorthand Reporter, Certified Realtime  6 Reporter, Registered Professional Reporter, and  7 Notary Public for the States of New Jersey, New  8 York, Pennsylvania and Delaware, at the offices of  9 RIKER DANZIG SCHERER HYLAND PERRETTI, LLP,  10 Headquarters Plaza, One Speedwell Avenue, Conference  11 Room 9A, Morristown, New Jersey, on Thursday,  12 July 11, 2013, commencing at 8:45 a.m.  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p>1 ALSO PRESENT:  2  3 MICHAEL KAUFFMANN  4 TECHNICIAN  5  6 CHRIS CAMPBELL  7 VIDEOGRAPHER  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>
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<p>1 APPEARANCES:  2  3 AYLSTOCK WITKIN KREIS &amp; OVERHOLTZ, PLLC  4 BY: DANIEL J. THORNBURGH, ESQ.  5 17 East Main Street, Suite 200  6 Pensacola, Florida 35202  7 (850) 202-1010  8 Dthornburgh@awkolaw.com  9 Counsel for the Plaintiffs  10  11 WILSON LAW, PA  12 BY: KIMBERLY R. WILSON, ESQ.  13 1111 Haynes Street, Suite 103  14 Raleigh, North Carolina 27605  15 (919) 890-0181  16 Kim@wilsonlawpa.com  17 Counsel for the Plaintiffs  18  19 THOMAS COMBS &amp; SPANN, PLLC  20 BY: PHILIP J. COMBS, ESQ.  21 300 Summers Street, Suite 1380  22 Charleston, West Virginia 25301  23 (304) 414-1800  24 Pcombs@tcspllc.com  25 Counsel for Johnson &amp; Johnson and Ethicon  26  27 BUTLER SNOW O'MARA STEVENS &amp; CANNADA, PLLC  28 BY: PAUL S. ROSENBLATT, ESQ.  29 1020 Highland Colony Parkway, Suite 1400  30 Ridgeland, Mississippi 39157  31 (601) 948-5711  32 Paul.rosenblatt@butlersnow.com  33 Counsel for Johnson &amp; Johnson and Ethicon  34  35 HEIDELL, PITTONI MURPHY &amp; BACH, LLP  36 BY: NANCY M. MARINI, ESQ.  37 855 Main Street, suite 1100  38 Bridgeport, Connecticut 06604  39 (203) 382-9700  40 Nmarini@hpmc.com  41 Counsel for Dr. Brian J. Hines and  42 Urogynecology &amp; Pelvic Surgery, LLC  43 (VIA TELEPHONE)  44  45</p>	<p>1 INDEX  2 TESTIMONY OF: BARTHOLOMEW P. PATTYSON PAGE  3 EXAMINATION BY MR. THORNBURGH 312/585  4 EXAMINATION BY MS. WILSON 403  5 EXAMINATION BY MR. COMBS 537/607  6 EXHIBIT NO. DESCRIPTION PAGE  7 T751 Slide Deck KOL Strategy February 335  8 2008 ETH.MESH.0029667  9 T752 37-page Slide deck the Science of 349  10 "What's Left Behing"... Evidence &amp;  11 Follow-Up of Mesh Use for SUI Doug  12 H. Grier ETH.MESH.01706065  13 T753 e-mail string ETH.MESH.07386591 &amp; 375  14 07386592 marked Confidential  15 Subject to Stipulation and Order  16 of Confidentiality  17 T754 e-mail string ETH.MESH.01730839 389  18 marked Highly Confidential Subject  19 to Stipulation and Order of  20 Confidentiality  21 T755 slide deck China Sales 396  22 Recertification July 20-22  23 Shanghai, China 160 pages no Bates  24 T756 slide deck TVT Obturator Anatomic 400  25 Considerations Clinical Update  26 Special Considerations Raders and  27 Lucente ETH.MESH.01696387  28 T757 Bartholomew Pattyson resume 412  29 ETH.MESH.08692184 &amp; 08692185  30 marked Confidential Subject to  31 Stipulation and Order of  32 Confidentiality  33 T758 2005 Performance and Development 420  34 Plan Summary for Bartholomew  35 Pattyson ETH.MESH.08692297 to  36 08692304 marked Confidential  37 Subject to Stipulation and Order  38 of Confidentiality  39 T759 2006 Performance and Development 423  40 Plan Summary for Bartholomew  41 Pattyson ETH.MESGH.08692305 to  42 08692311 marked Confidential  43 Subject to Stipulation and Order  44  45</p>

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1	E X H I B I T S		1	E X H I B I T S	
2	EXHIBIT NO.	PAGE	2	EXHIBIT NO.	PAGE
3	T760 2007 Performance and Development Plan Summary for Bartholomew Pattyson ETH.MESH.08692312 to 08692317 marked Confidential Subject to Stipulation and Order of Confidentiality	428	3	T780 e-mail string ETH.MESH.01761352 to 01761359 marked Highly Confidential Subject to Stipulation and Order of Confidentiality	513
4	T761 2008 Performance and Development Plan Summary for Bartholomew Pattyson ETH.MESH.0892318 to 08692324 marked Confidential Subject to Stipulation and Order of Confidentiality	433	4	T781 e-mail string ETH.MESH.06121290 to 06121292 marked Confidential Subject to Stipulation and Order of Confidentiality	518
5	T762 Memorandum to Bart Pattyson from Dave Bourdeau ETH.MESH.08692278 & 08692279 marked Confidential Subject to Stipulation and Order of Confidentiality	437	5	T782 e-mail string ETH.MESH.00815933 to 00815934 marked Highly Confidential Subject to Stipulation and Order of Confidentiality	521
6	T763 IFU for Gynecare TVT Secur ETH.MESH.02340568 to 02340590	441	6	T783 Summary of Gynecare TVT Secur System Critical Steps ETH.MESH.00805441 & 00805442 marked Highly confidential Subject to Stipulation and Order of Confidentiality	521
7	T764 TVT/SUI Professional Education Index and Production Bates Range Chart	466	7	T784 e-mail string ETH.MESH.00815892 to 00815894 marked Highly Confidential Subject to Stipulation and Order of Confidentiality	526
8	T765 updated index outlining Professional Ed materials that were used by Ethicon for the various TVT products no Bates	466	8	T785 e-mail string ETH.MESH.00815877 to 00815881 marked Highly Confidential "P" Subject to Stipulation and Order of Confidentiality	528
9	T766 slide deck Gynecare TVT Secur* System Tension-Free Support for Incontinence ETH.MESH.00308094	469	9	T786 e-mail string ETH.MESH.01719509 marked Highly Confidential Subject to Stipulation and Order of confidentiality	530
10	T767 slide deck Procedural Pearls & Frequently Asked Questions ETH.MESH.07396541 to 07396546 marked Confidential Subject to Stipulation and Order for confidentiality	473	10	T787 chart ETH.MESH.01719510 to 01719516 marked Confidential	530
11	T768 slide deck Gynecare TVT-Secur Key Technical Points (Procedural Pearls) ETH.MESH.01000449 to 01000457 marked Highly Confidential Subject to Stipulation and Order of Confidentiality	476	11	T788 e-mail string ETH.MESH.00814238 & 00814239 marked Highly Confidential Subject to Stipulation and Order of Confidentiality	534
12	T769 slide deck Gynecare TVT Secur*System Early Surgical Experience ETH.MESH.00370392	478	12	T789 Faculty Development Management ETH.MESH00420577	541
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2	EXHIBIT NO.	PAGE	2	EXHIBIT NO.	PAGE
3	T770 slide deck TVT-Secur Professional Education Program for Medtronic/WEHU Prof Ed Pilot Program ETH.MESH.05320911	480	3	T790 10/23/06 letter to EWHU field Sales Force from Price St. Hilaire ETH.MESH.00461576 marked Highly Confidential Subject to Stipulation and Order of Confidentiality	550
4	T771 slide deck Treatment of Stress Urinary Incontinence with Gynecare TVT Secur System ETH.MESH.04181833	481	4	T791 DM/Sales Rep Do's and Don'ts ETH.MESH.00319128 & 00319129 marked Highly Confidential Subject to Stipulation and Order of Confidentiality	556
5	T772 slide deck Treatment of Stress Urinary Incontinence with the Gynecare TVT Family of Products ETH.MESH.00369995	483	5	T792 Gynecare TVT Tension-Free Support for Incontinence Perilesional Education Slides ETH.MESH.05795421 to 05795508 marked Highly Confidential Subject to Stipulation and Order of Confidentiality	580
6	T773 TVT-Secur Video document stamped Approved September 16, 2008 Marketing Services ETH.MESH.00147507 to 00147509 marked Highly Confidential Subject to Stipulation and Order of Confidentiality	484	6		
7	T774 Procedural Steps Gynecare TVT Secur System ETH.MESH.01128679 to 01128698 marked Highly Confidential Subject to Stipulation and Order of Confidentiality	486	7		
8	T775 *****MARKED BUT NOT USED***** Gynecare Prolift Pelvic Floor Repair System and TVT Secur Mid-urethral Sling Preceptorship St. Lukes Hospital Allentown PA with Bates handwritten 00813007	488	8		
9	T776 slide deck Gynecare Prolift 2008 Gynecare Prolift Pelvic Floor Repair System and TVT Secur Mid-urethral Sling Preceptorship St. Lukes Hospital Allentown PA with Bates handwritten 00813007	491	9		
10	T777 e-mail string ETH.MESH.00819603 & 00819604 marked Highly Confidential Subject to Stipulation and Order of Confidentiality	494	10		
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<p>1                   - - -</p> <p>2                   DEPOSITION SUPPORT INDEX</p> <p>3                   - - -</p> <p>4</p> <p>5       Direction to Witness Not to Answer</p> <p>6       Page Line   Page Line   Page Line   Page Line</p> <p>7       None</p> <p>8</p> <p>9</p> <p>10      Request for Production of Documents</p> <p>11      Page Line   Page Line   Page Line   Page Line</p> <p>12      None</p> <p>13</p> <p>14</p> <p>15      Stipulations</p> <p>16      Page Line   Page Line   Page Line   Page Line</p> <p>17      402 21</p> <p>18</p> <p>19</p> <p>20      Motion to Strike</p> <p>21      Page Line   Page Line   Page Line   Page Line</p> <p>22      361 7     543 11     551 12     559 16</p> <p>23      560 18     563 6     566 23     577 15</p> <p>24</p> <p>25</p>	<p>1       under oath, right?</p> <p>2       A.    I do.</p> <p>3       Q.    Okay. Did you have some type to</p> <p>4       further prepare for today's deposition last night?</p> <p>5       A.    I just slept when I got back to my</p> <p>6       room.</p> <p>7       Q.    Yeah. Well, I have a couple initial</p> <p>8       questions. I just want to make sure I understand</p> <p>9       your testimony briefly from yesterday, okay?</p> <p>10      A.    Okay.</p> <p>11      Q.    Because I've got a lot of documents</p> <p>12      and defense counsel has asked me to try to expedite</p> <p>13      my deposition and cut it shorter than I had planned.</p> <p>14      So I've got a couple of questions to ask you so that</p> <p>15      I think these initial questions will help streamline</p> <p>16      the process, okay?</p> <p>17      A.    Okay.</p> <p>18      Q.    As an employee of Ethicon working in</p> <p>19      the Professional Education department, was it your</p> <p>20      testimony yesterday that you had no involvement in</p> <p>21      the creation of the Professional Educational slide</p> <p>22      deck or other materials; in other words, did you</p> <p>23      have any involvement at all in the content that went</p> <p>24      into didactic slide decks?</p> <p>25      A.    Yes, I had some involvement.</p>
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<p>1                   THE VIDEOGRAPHER: We are now on the</p> <p>2       record. My name is Christopher Campbell. I'm a</p> <p>3       videographer for Golkow Technologies. Today's date</p> <p>4       is July 11th, 2013, and the time is 8:45.</p> <p>5                   This deposition is being held in Morristown,</p> <p>6       New Jersey, In Re: Pelvic Repair Systems for the</p> <p>7       United States District Court, the Southern District</p> <p>8       of West Virginia, Charleston Division.</p> <p>9                   The deponent is Bartholomew Pattyson.</p> <p>10      Counsel will be noted on the stenographic</p> <p>11      record.</p> <p>12      Our court reporter is Silvia Wage.</p> <p>13      The witness has been previously sworn in.</p> <p>14      We can now proceed.</p> <p>15      B A R T H O L O M E W   P.   P A T T Y S O N,</p> <p>16      (Business Address) US Route 22 West,</p> <p>17      Somerville, New Jersey 08876, after having</p> <p>18      been previously sworn, was examined and</p> <p>19      testified as follows:</p> <p>20      CONTINUED EXAMINATION BY MR. THORNBURGH:</p> <p>21      Q.    Good morning.</p> <p>22      A.    Good morning.</p> <p>23      Q.    How are you doing this morning?</p> <p>24      A.    Fine.</p> <p>25      Q.    You understand that you're still</p>	<p>1       Q.    In the content? Because yesterday</p> <p>2       there were representations that were made that you</p> <p>3       had no involvement other than organizational,</p> <p>4       organizing the public -- or the Professional</p> <p>5       Educational events.</p> <p>6                   So is it your testimony that you had more</p> <p>7       involvement than that in terms of the content that</p> <p>8       went into the Professional Educational material?</p> <p>9       A.    Can you be more specific to</p> <p>10      "content"?</p> <p>11      Q.    Yeah. Did you ever have any</p> <p>12      involvement in what information went into a slide</p> <p>13      deck which was presented at a preceptorship,</p> <p>14      cadaver lab or proctorship?</p> <p>15      A.    I did have participation if a slide</p> <p>16      had a lot of information. et's say too many -- too</p> <p>17      much prose or too many words on it, layout, color,</p> <p>18      that sort of content to, you know, formatting I</p> <p>19      would call that.</p> <p>20      Q.    Okay. So you had involvement in</p> <p>21      formatting and making the presentation material look</p> <p>22      better?</p> <p>23      A.    Yes. Sometimes we'd be at courses</p> <p>24      and if a surgeon couldn't see it, if the lighting,</p> <p>25      things like that, just more formatting and</p>

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<p>1 appearance type feedback that I would sometimes give</p> <p>2 input into.</p> <p>3 Q. But is it your testimony you had no</p> <p>4 involvement in the information or data contained</p> <p>5 within the presentations?</p> <p>6 A. That is correct. I did not have</p> <p>7 input to the data that was put into the slides.</p> <p>8 Q. Who would have been the person in</p> <p>9 charge of or persons in charge of putting the data</p> <p>10 and the information within the presentations?</p> <p>11 A. Well, there were many presentations.</p> <p>12 Q. Right, right.</p> <p>13 A. There are many people. So I know</p> <p>14 surgeons were probably the biggest proponent to what</p> <p>15 content went on our slides and they working with</p> <p>16 other folks internally, medical affairs, regulatory,</p> <p>17 they would give a lot of that input.</p> <p>18 Q. Okay. Just so I understand, when you</p> <p>19 say "surgeons," are you talking about your key</p> <p>20 opinion leaders?</p> <p>21 A. Yeah, faculty, preceptors we</p> <p>22 sometimes called them, yes.</p> <p>23 Q. Okay. Did you have any involvement</p> <p>24 in or make any -- did Professional Ed department</p> <p>25 have any involvement in what type of information</p>	<p>1 A. No. I mean, it's, basically, between</p> <p>2 copy approved and the faculty would make those</p> <p>3 determinations.</p> <p>4 Q. Okay. So copy approved but the</p> <p>5 person or persons who are actually making the</p> <p>6 decision of which deck to use at a particular</p> <p>7 Professional Education event would be the KOL or</p> <p>8 preceptor?</p> <p>9 A. Yeah, we might point them to</p> <p>10 that deck, which one it is, just to make sure they</p> <p>11 have the right deck but, yes.</p> <p>12 Q. But they're making the ultimate</p> <p>13 decision, yeah, I'm going to use this deck or I'm</p> <p>14 not going to use this deck?</p> <p>15 A. They have to use the copy approved</p> <p>16 deck so...</p> <p>17 Q. So your job as the person in</p> <p>18 Professional Education or your department role or</p> <p>19 the department's role within the company was to</p> <p>20 organize these events in collaboration with sales</p> <p>21 representatives, in collaboration with the KOL's or</p> <p>22 preceptors and your department; is that fair to say?</p> <p>23 MR. COMBS: Object to the form.</p> <p>24 Q. Your counsel represented that,</p> <p>25 basically, that what your role was within the</p>
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<p>1 would be shared; in other words, did you or your</p> <p>2 department say, you know, we want to put on a</p> <p>3 cadaver lab in Chicago and we want the topic to be</p> <p>4 TVT-Obturator system and we want to use the slide</p> <p>5 that was created which showed the procedural</p> <p>6 methods --</p> <p>7 MR. COMBS: Object to the form.</p> <p>8 Q. -- for example?</p> <p>9 I mean, did you have -- did you make the</p> <p>10 decision about which or did your department make the</p> <p>11 decision about which presentations would be shown at</p> <p>12 the cadaver labs or other Professional Education</p> <p>13 events that you were putting on?</p> <p>14 A. Yes. There was -- at any point in</p> <p>15 time we have copy approved materials and those are</p> <p>16 the ones that we can use. There may have been more</p> <p>17 than one deck that's currently copy approved. So</p> <p>18 which deck that was, was, I think, a selection</p> <p>19 process that the faculty, who were teaching the</p> <p>20 course, once getting, you know, that copy approved</p> <p>21 content would use.</p> <p>22 Q. Right. But my question is, would you</p> <p>23 decide which deck, did you have any involvement in</p> <p>24 deciding which deck got presented at a particular</p> <p>25 lab?</p>	<p>1 company was to organize Professional Education</p> <p>2 events.</p> <p>3 MR. COMBS: It's a coordinating</p> <p>4 function, yes.</p> <p>5 A. That's correct.</p> <p>6 Q. Okay.</p> <p>7 MR. THORNBURGH: And I would</p> <p>8 appreciate if you didn't help answer the questions</p> <p>9 but...</p> <p>10 MR. COMBS: Well, you're the one</p> <p>11 that's making representations about what I did or</p> <p>12 what I didn't say.</p> <p>13 MR. THORNBURGH: That was the</p> <p>14 representation you made yesterday. Listen, I'm</p> <p>15 trying to streamline this process. So I'm just</p> <p>16 making sure that what you said yesterday is</p> <p>17 accurate.</p> <p>18 MR. COMBS: Ask him the question.</p> <p>19 Q. So you would coordinate events with</p> <p>20 other folks?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. Who would you coordinate with?</p> <p>23 A. I would make sure faculty were</p> <p>24 available. So I would often have to check with them</p> <p>25 or with their respective schedulers to see that</p>

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<p>1 their agendas and could be available on such and</p> <p>2 such a date. I would need to coordinate with the</p> <p>3 facilities where these programs were being held and</p> <p>4 not much coordination with sales reps. You asked</p> <p>5 about sales reps. I mean, they had to know when the</p> <p>6 events were and they would register their doctors</p> <p>7 with their managers but, you know, so those are some</p> <p>8 of the people I coordinated with.</p> <p>9 Q. Alright. So one of your functions in</p> <p>10 Professional Education was as a coordinator?</p> <p>11 A. You could say that.</p> <p>12 Q. Or an event planner; is that</p> <p>13 accurate?</p> <p>14 A. That is accurate.</p> <p>15 Q. Okay. Did you also as an event</p> <p>16 planner or coordinator within Professional Education</p> <p>17 department, was it your job to try to keep a fairly</p> <p>18 close relationship with the faculty members so that</p> <p>19 you keep them involved in the process and so that</p> <p>20 you understand what their needs are and they</p> <p>21 understand what your requests are? I mean, how was</p> <p>22 your relationship or if you could tell the ladies</p> <p>23 and gentlemen of the jury what was your relationship</p> <p>24 like with the faculty members or preceptors or key</p> <p>25 opinion leaders?</p>	<p>1 influential. That's not how I would...</p> <p>2 Q. Well, let me see if I can break it</p> <p>3 down a little bit.</p> <p>4 Was it your -- as part of this department,</p> <p>5 were you given a role of trying to identify key</p> <p>6 opinion leader targets?</p> <p>7 A. I think identifying them was not a</p> <p>8 responsibility that I was tasked with or felt I was</p> <p>9 tasked with.</p> <p>10 Q. Okay.</p> <p>11 A. I think the idea was to be aware of</p> <p>12 surgeons in the community that were very active</p> <p>13 medically and in their hospital or in the societies</p> <p>14 or -- so key opinion leaders as we talk about them</p> <p>15 are, typically, surgeons that have a known name in</p> <p>16 their community on a local, regional or national or</p> <p>17 international basis. So, yeah, I would be aware of</p> <p>18 who they were and that's it, yeah.</p> <p>19 Q. Ethicon had key opinion leader</p> <p>20 relationship managers, right?</p> <p>21 A. In Professional Education, yes. Our</p> <p>22 job was to be the main point of contact for the most</p> <p>23 part for all of our faculty.</p> <p>24 Q. Okay. So you got -- you and your</p> <p>25 colleagues within the Professional Education</p>
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<p>1 A. My relationship was always</p> <p>2 professional and good. I would say I had a very</p> <p>3 good working relationship with all of the faculty</p> <p>4 that I've worked with.</p> <p>5 Q. I mean, as the -- as a person within</p> <p>6 this department, was it your responsibility to sort</p> <p>7 of manage the key opinion leaders? What I mean by</p> <p>8 that, I mean, identify key opinion leaders, ones</p> <p>9 that you think that are going to be helpful to the</p> <p>10 organizational needs of the company?</p> <p>11 MR. COMBS: Object to form.</p> <p>12 A. Yeah, could you just restate that</p> <p>13 question for me, please.</p> <p>14 Q. Yeah, yeah. So, as part of your role</p> <p>15 within the Professional Education department, was it</p> <p>16 your responsibility to try to identify key opinion</p> <p>17 leaders who you thought would be influential and who</p> <p>18 would help develop -- let me strike that. Let me</p> <p>19 ask you this question.</p> <p>20 Was there a process in place in the</p> <p>21 Professional Education department to try to identify</p> <p>22 key opinion leaders who you thought would be</p> <p>23 influential?</p> <p>24 A. I don't think there was a process in</p> <p>25 place to look for key opinion leaders that were</p>	<p>1 department were the key opinion leader relationship</p> <p>2 managers?</p> <p>3 MR. COMBS: Object to the form.</p> <p>4 A. Yeah, we may have referred to</p> <p>5 ourselves as that, although we didn't -- we weren't</p> <p>6 the only point of contact. We were identified as</p> <p>7 key point of contacts geographically for the time in</p> <p>8 the US, for example.</p> <p>9 Q. Yes, I get that.</p> <p>10 So you guys in the Professional Education</p> <p>11 department were key managers or key contact people</p> <p>12 for the key opinion leaders?</p> <p>13 A. You could say that, yes.</p> <p>14 Q. And Professional Education -- the</p> <p>15 Professional Education department within Ethicon,</p> <p>16 actually, didn't do any education or provide any</p> <p>17 education to physicians who were interested in</p> <p>18 adopting your products? I can break it down and</p> <p>19 make it easier.</p> <p>20 You didn't have somebody in the Professional</p> <p>21 Education department who was out on the road</p> <p>22 training physicians?</p> <p>23 A. No. That was not my understanding,</p> <p>24 no.</p> <p>25 Q. You all within the Professional</p>

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<p>1 Education department at Ethicon were event planners,  2 you were planning events and then you'd coordinate  3 with your faculty members who would present the  4 information and Professional Education material to  5 physicians who were interested in adopting your  6 products?  7 A. That is correct.  8 Q. So part of Ethicon's Professional  9 Education program were having the Professional  10 Education managers, such as yourself, who would  11 identify and develop key opinion leaders and those  12 key opinion leaders would then share the Ethicon  13 copy approved material with the physicians who you  14 all were trying to train?  15 A. Again, as I stated a moment ago, it  16 was not my task to go out there and identify them  17 and develop them. But it was more -- we were aware  18 of them. If they were contracted with us, we would  19 work with them. We'd answer any questions they had  20 specific to how our programs are going to run, all  21 that, materials, yeah, the tools we need available.  22 Q. I gotcha.  23 So you guys in the Professional Education  24 department -- Professional Education program at  25 Ethicon was the Professional Education department</p>	<p>1 our product. That was my whole reason for being.  2 Q. Okay. So best forum and best tools;  3 is that how you defined it?  4 A. Resources, tools, yeah. I would --  5 whatever was available and copy approved, I would  6 want to make available for these courses,  7 absolutely.  8 Q. Did you have any involvement in  9 determining whether or not a physician was  10 adequately trained so that the physician could  11 provide safe and effective treatment with Ethicon  12 products?  13 A. You're talking about the faculty for  14 training?  15 Q. No, I'm talking about you.  16 A. Could you restate the question?  17 Q. Yeah.  18 MR. COMBS: Are you talking about  19 preceptors or preceptees?  20 MR. THORNBURGH: Right. So can you  21 read back my question, please.  22 Q. And re-ask it if it's not a good  23 question. Sometimes that happens.  24 A. It's okay.  25 (Whereupon, the question is read back as</p>
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<p>1 which did a number of things, one of which was  2 planning or scheduling these events, organizing  3 these events?  4 A. That's correct.  5 Q. And then you would work with your key  6 opinion leaders who would present the information to  7 physicians who were being trained?  8 A. That's correct.  9 Q. Alright. So the department,  10 basically, was the organizational part of it, the  11 event planning part of it --  12 A. Yes.  13 Q. -- and your relationship with key  14 opinion leaders who would share that information  15 that was copy approved by Ethicon with physicians  16 who were interested in adopting your products?  17 A. That is correct.  18 Q. Okay. So, other than organizing  19 these events and working with key opinion leaders,  20 what role did you have within Ethicon? What other  21 purpose did you serve?  22 A. My purpose was to, to the best of my  23 ability, ensure that we are providing the best forum  24 and every element and resource available to our  25 surgeons for the safe and efficacious training of</p>	<p>1 follows:  2 "Question: Did you have any involvement in  3 determining whether or not a physician was  4 adequately trained so that the physician could  5 provide safe and effective treatment with Ethicon  6 products?")  7 Q. Okay. Did you have -- I can ask it  8 better.  9 Did you have any involvement in determining  10 whether or not the customers were adequately trained  11 before they were implanting patients with Ethicon  12 products?  13 A. I'm afraid I need you to clarify  14 because you could determine that faculty also use  15 our -- we considered faculty our customers as well.  16 Q. Right. So not your faculty.  17 A. Not my -- attendees.  18 Q. Yeah, attendees.  19 A. Yeah.  20 Q. Preceptees?  21 A. Okay.  22 Q. Did you have any involvement or did  23 Professional Education have any role in determining  24 which of these preceptees now had sufficient  25 training to safely implant Ethicon products?</p>

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<p>1 A. No.</p> <p>2 Q. And that wasn't the role of the</p> <p>3 Professional Education department?</p> <p>4 A. That's -- that was my understanding,</p> <p>5 absolutely.</p> <p>6 Q. So you had an organizational function</p> <p>7 or event planning function. You coordinated with</p> <p>8 the key opinion leaders who would present the data</p> <p>9 to doctors. You would -- you described -- you</p> <p>10 provide the best forum; so, in other words, what I</p> <p>11 think that means -- and correct me if I'm wrong --</p> <p>12 you would find a good place, a good facility where</p> <p>13 these cadaver labs or preceptorships or proctorships</p> <p>14 could -- I'm sorry, strike that.</p> <p>15 You would find the best forum, which I think</p> <p>16 you mean, you find a location where these</p> <p>17 Professional Education events could be located,</p> <p>18 could occur at?</p> <p>19 A. Yes. When it required going</p> <p>20 someplace other than a surgeon's hospital, if it</p> <p>21 were a cadaver lab, for example, in another hospital</p> <p>22 or facility, yes, I would try and find the most</p> <p>23 suitable location to host those trainings.</p> <p>24 Q. Right. And that's, basically, part</p> <p>25 of the event planning?</p>	<p>1 aware the copy review has a team of people from</p> <p>2 various functions --</p> <p>3 Q. Right.</p> <p>4 A. -- that review these materials and</p> <p>5 see that it's fair and balanced and has all the</p> <p>6 right criteria on that and then they would provide</p> <p>7 that to me that I would then make sure that it's</p> <p>8 available at the course.</p> <p>9 Q. But Ethicon would also -- I mean, you</p> <p>10 say that these resources would be developed or the</p> <p>11 information and data would be developed from key</p> <p>12 opinion leaders.</p> <p>13 But isn't it true that Ethicon also had</p> <p>14 people internally who would write or draft didactic</p> <p>15 presentations?</p> <p>16 A. There's many decks that are used, not</p> <p>17 all of them go to a Prof Ed event.</p> <p>18 Q. Okay.</p> <p>19 A. Again, I don't create the decks that</p> <p>20 are used at Prof Ed events. So -- and I can't tell</p> <p>21 you who all over the span of ten years when I was in</p> <p>22 sales or in Prof Ed or today who all has a hand on</p> <p>23 those decks, okay. I cannot tell you.</p> <p>24 Q. Are there certain events,</p> <p>25 Professional Education events, where you could tell</p>
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<p>1 A. Absolutely.</p> <p>2 Q. So that's not a new role that's part</p> <p>3 of the same role that we've already discussed, it's</p> <p>4 part of finding and planning --</p> <p>5 A. Absolutely.</p> <p>6 Q. -- and organizing an event?</p> <p>7 A. Absolutely.</p> <p>8 Q. And then you said best resources,</p> <p>9 which would be copy approved material, right?</p> <p>10 A. Yes.</p> <p>11 Q. But you in the Professional Education</p> <p>12 department didn't decide that -- whether the</p> <p>13 information that was being provided was the best</p> <p>14 information or accurate information or complete</p> <p>15 information, that wasn't your function?</p> <p>16 A. No, it was not.</p> <p>17 Q. Right? So you would just -- you</p> <p>18 would have to depend on the information that was</p> <p>19 being provided from your preceptors or key opinion</p> <p>20 leaders to or through the copy approval process,</p> <p>21 right?</p> <p>22 A. Yes, they would have input to these</p> <p>23 decks. On the substantive context, certainly,</p> <p>24 clinical data, medical and then our copy review</p> <p>25 process would review that. And I'm sure you're</p>	<p>1 me that that's an event -- that that's a type of</p> <p>2 event that we would use Ethicon drafted</p> <p>3 presentations to provide to professionals who</p> <p>4 attended the meeting -- these events?</p> <p>5 MR. COMBS: Object to the form.</p> <p>6 A. I guess I need you to clarify what</p> <p>7 you mean by "Ethicon drafted" because --</p> <p>8 Q. Right. So created, so some sort of</p> <p>9 slide deck that was created by somebody within</p> <p>10 Ethicon.</p> <p>11 A. Yeah, to answer your question, I do</p> <p>12 not -- I cannot recall any Ethicon created slide</p> <p>13 deck that -- or drafted or authored that were</p> <p>14 presented.</p> <p>15 Q. You're not saying that you can't</p> <p>16 recall because it didn't happen, just sitting here</p> <p>17 today you don't know -- you couldn't tell me which</p> <p>18 ones were created by Ethicon and which ones were</p> <p>19 created by key opinion leaders?</p> <p>20 A. I cannot tell you -- I cannot recall</p> <p>21 any slide deck, to answer your question, that was</p> <p>22 Ethicon created or drafted without surgeon input,</p> <p>23 no.</p> <p>24 Q. Without what?</p> <p>25 A. That did not have surgeon input at</p>

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<p>1 our Prof Ed events.</p> <p>2 Q. So somebody at Ethicon may draft the</p> <p>3 language and then provide it to a key opinion leader</p> <p>4 or a faculty member to look at it to make sure that</p> <p>5 the information is accurate; is that what you're</p> <p>6 saying?</p> <p>7 A. No, I don't recall saying that.</p> <p>8 Q. Okay.</p> <p>9 MR. THORNBURGH: Can you read back</p> <p>10 his last answer, please.</p> <p>11 (Whereupon, the answer is read back as</p> <p>12 follows:</p> <p>13 "Answer: I cannot tell you -- I cannot</p> <p>14 recall any slide deck, to answer your question, that</p> <p>15 was Ethicon created or drafted without surgeon</p> <p>16 input, no.")</p> <p>17 Q. So you're saying "without surgeon</p> <p>18 input," so I'm trying to understand your answer.</p> <p>19 Are you saying that the preceptors or</p> <p>20 -- that's what you mean by "surgeon input," right?</p> <p>21 A. Yes, preceptors are our faculty</p> <p>22 that...</p> <p>23 Q. Okay. So without faculty or</p> <p>24 preceptor input. But that doesn't mean to me that</p> <p>25 Ethicon wouldn't draft up a document or draft or</p>	<p>1 like how to properly perform or safely perform a</p> <p>2 TVT-Secur procedure --</p> <p>3 A. Uh-huh.</p> <p>4 Q. -- the steps on how to safely perform</p> <p>5 that procedure would have come from Ethicon, right?</p> <p>6 A. Yes. The R&amp;D department creates an</p> <p>7 IFU and I know others weigh in on the creation of</p> <p>8 that IFU. That includes the steps for our</p> <p>9 procedures.</p> <p>10 Q. So, if there's a presentation by a</p> <p>11 KOL or a faculty member about the procedural steps</p> <p>12 that are needed for safe implantation of Ethicon TVT</p> <p>13 devices, that would come from the IFU, right?</p> <p>14 The steps that need to be taken to safely</p> <p>15 implant a device would come from the information for</p> <p>16 use that was drafted by the R&amp;D department during</p> <p>17 the development of the product, right?</p> <p>18 A. That's correct. And, just to</p> <p>19 clarify, there is also procedural step guides that</p> <p>20 are also created kind of with the IFU and copy</p> <p>21 reviewed. Those materials would also be available</p> <p>22 at these events as well.</p> <p>23 Q. Yeah. And those procedural step</p> <p>24 guides would be drafted by Ethicon, right?</p> <p>25 A. I can't tell you who specifically</p>
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<p>1 create the language within a slide deck and then</p> <p>2 provide that to the faculty member to look at and</p> <p>3 approve before it was used at a Professional</p> <p>4 Education event. Are you saying that that never</p> <p>5 occurred?</p> <p>6 So are you saying that all of the</p> <p>7 information -- is it your testimony that all of the</p> <p>8 information within Professional Education slide</p> <p>9 decks were -- was created by your key opinion</p> <p>10 leaders or faculty members?</p> <p>11 A. I'm stating that all of the content</p> <p>12 that we presented and contents, meaning, a slide</p> <p>13 deck, has a lot of information. There is IFU.</p> <p>14 That, obviously, wouldn't be created -- IFU material</p> <p>15 -- we talked yesterday about complication rates.</p> <p>16 Some of that material was not created by the</p> <p>17 surgeon.</p> <p>18 Q. Right.</p> <p>19 A. All medically procedural that's not</p> <p>20 IFU related and that content substantive to the</p> <p>21 procedure and the clinical and all of that type of</p> <p>22 material was surgeon created.</p> <p>23 Does that answer your question?</p> <p>24 Q. Yeah, I think so.</p> <p>25 But when we're talking about procedures,</p>	<p>1 drafted them. I know medical affairs had input on</p> <p>2 those. I know regulatory. I know surgeons, like I</p> <p>3 said, faculty or preceptors that we've already</p> <p>4 talked about, yeah.</p> <p>5 Q. Other than these roles that we talked</p> <p>6 about today, your responsibility or your function or</p> <p>7 the Professional Education department's function --</p> <p>8 is there any other function that I'm -- that I've</p> <p>9 overlooked?</p> <p>10 A. Functions that I perform?</p> <p>11 Q. Yeah.</p> <p>12 A. Sure. There's -- I mean, there's</p> <p>13 other functions. We have meetings, we liaise, we</p> <p>14 talk, expenses, there is lot of training and things</p> <p>15 that we go through on a routine basis like we</p> <p>16 discussed yesterday, compliance training, things</p> <p>17 like this. There's a lot of functions,</p> <p>18 communication, just sharing information, that's a</p> <p>19 function that I would say we -- I enjoy performing.</p> <p>20 Q. Wouldn't you agree that one of the</p> <p>21 functions whether explicit or implicit of the</p> <p>22 Professional Education department was marketing?</p> <p>23 A. No, that's -- I would not agree.</p> <p>24 Q. Was trying to increase. through these</p> <p>25 training programs, Ethicon profits?</p>

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<p>1 A. No, I do not feel that's a function 2 of Prof Ed. 3 Q. Prof Ed created key opinion leader 4 strategies, right? 5 A. Key opinion leader strategies? I 6 would say that we had some strategies as far as 7 communicating with them and working with them and 8 things like that, yes. 9 Q. Well, let's look. 10 MR. THORNBURGH: If you can go ahead 11 and pull out Exhibit -- Bates No. 0029667. 12 We'll mark this as Exhibit 751. 13 (Deposition Exhibit No. T751, Slide Deck KOL 14 Strategy February 2008 ETH.MESH.0029667, was marked 15 for identification.) 16 MR. THORNBURGH: You know what, I 17 thought I had three copies of that document, but it 18 only looks like I have two copies of that document. 19 MR. COMBS: Let's take a second. 20 MR. THORNBURGH: I can also e-mail it 21 to you electronically. 22 THE VIDEOGRAPHER: The time is now 23 9:17. We are going off the record. 24 (Recess taken 9:17 to 9:21 a.m.) 25 THE VIDEOGRAPHER: The time is now</p>	<p>1 MR. COMBS: Object to the form. 2 Q. That's what it says? 3 A. It says "KOL categorization," that's 4 correct. 5 Q. So what we're talking about here is 6 what type of physicians are -- fall into a category 7 such that they could potentially become key opinion 8 leaders for Ethicon? 9 A. Yeah, I see this as a way to 10 categorize certain KOL's that could be key opinion 11 leaders, as they're commonly referred to in our 12 industry, yeah. 13 Q. So if somebody is a society 14 influencer, that's somebody that Ethicon would 15 potentially want to become a key opinion leader for 16 the company? 17 A. I think, yeah, I think there's folks 18 that could be described as having an influence in 19 their community, medical community. 20 Q. Right. 21 A. That would be a category. 22 Q. By influence, I think, you mean, I 23 assume you mean, correct me if I'm wrong, because of 24 their status or their qualifications or their 25 history or their charisma, they will have the</p>
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<p>1 9:21. We are back on the record. 2 Q. The exhibit that I've handed you, 3 which we've marked as 751, is a presentation that 4 was contained within your custodial file. 5 Do you recognize it? 6 A. To be honest with you, I don't. 7 Q. And the date on the front is 8 February 2008, right? 9 A. Yes, that's what I see. 10 Q. And it says, "KOL strategy," right? 11 A. That's correct. 12 Q. And KOL are key opinion leaders -- 13 A. That's correct. 14 Q. -- that the company has identified 15 and the company has entered into a contractual 16 relationship with who provide training to doctors 17 who are interested or may be interested in adopting 18 the Ethicon products, right? 19 A. Yeah, that's -- I would say that's 20 accurate. 21 Q. And if you turn to the next page, it 22 says, "What is a KOL?" 23 And so let's turn to the next page. It 24 says, "KOL categorization." So what types of people 25 will become KOL's, right?</p>	<p>1 ability to influence other doctors about using 2 Ethicon products? 3 A. Could you restate the question, 4 please? 5 Q. Yeah. Influencer, right, somebody 6 who influences -- I mean, somebody that can help 7 facilitate the development or the adoption of 8 Ethicon products, right? So influence to me means 9 somebody that change somebody's mind or can provide 10 -- is a type of person who is -- has some esteem in 11 the community and because that doctor uses TVT 12 products, other doctors may want to use TVT products 13 as well? 14 A. You said a lot there. Could you 15 restate your question, please? 16 Q. Yeah. So what does influence means 17 to you? 18 A. Influence means to me the ability to 19 have an effect on another person's perception or 20 behavior or thoughts or... 21 Q. Right. So you're looking for that 22 type of physician who could have that type of impact 23 on other physicians? 24 A. The way I see that is just like in -- 25 when I was in college, we have teachers and some are</p>

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<p>1 very effective at teaching, others just might read 2 the content. So I think the ability to educate and 3 teach is a skill that is varied and that's not 4 excluded to the medical community or surgeon. So I 5 think the ability to influence, the ability to 6 educate and to communicate, you know, content is 7 what I see that means. 8 Q. And remember when I asked you earlier 9 if part of the KOL or part of the Professional 10 Education function, which included your 11 relationships with these key opinion leaders, was a 12 marketing function, and you said, no, that wasn't 13 our function. Do you remember that? 14 A. Yes, I do. 15 Q. Well, one of the objectives for 16 getting these type of physicians to become key 17 opinion leaders was so that you could -- with their 18 help -- you could find key opinion leaders -- so the 19 objective, I think, for the company was to find key 20 opinion leaders who would support organizational 21 objectives? 22 A. Would you mind restating that 23 question, please? 24 Q. Yeah. 25 MR. THORNBURGH: Would you mind</p>	<p>1 yes, that is correct. 2 Q. Okay. So let's turn the page. 3 Objective, so the objective of finding KOL's is to 4 engage KOL's across the spectrum of functional 5 expertise to partner, right, to become our partner, 6 in supporting organizational objectives, right? 7 A. Yes, I see that. 8 Q. So you wanted Ethicon -- Ethicon's 9 goal with KOL's is to partner with KOL's who would 10 support organizational objectives, that's what it 11 says, right? 12 A. Yes, I see that. 13 Q. And then it says, "Create a 14 systematic approach for efficiency and 15 effectiveness," correct? 16 A. That is correct. 17 Q. You know what it doesn't say there is 18 create a systematic approach for safety, right? 19 A. That is correct. 20 Q. So one of the objectives -- the 21 objective for Ethicon, as stated on this slide deck, 22 was to partner with key opinion leaders, people that 23 were influencers in their -- in the medical 24 community who would support the organizational 25 objectives, right, that's what this says?</p>
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<p>1 reading it back, Madam Court Reporter, please. 2 (There is a discussion off the record.) 3 (Whereupon, the question is read back as 4 follows: 5 "Question: So the objective, I think, for 6 the company was to find key opinion leaders who 7 would support organizational objectives?") 8 A. "Organizational objectives," no, I 9 would not agree with that. 10 Q. Because that would be kind of like 11 marketing, correct? 12 MR. COMBS: Objection to form. 13 A. Organizational could mean a lot of 14 things. I don't equate organizational with 15 marketing. 16 Q. Organizational objectives could mean, 17 and I think does mean, marketing. 18 The organizational objective of Ethicon is 19 to create devices that they could sell and make 20 money from, right, that's organizational -- 21 A. Organizational -- yeah, you could say 22 -- yeah, I guess if you're -- I was trying to 23 understand your question. 24 So an organizational objective for Ethicon 25 is to manufacture, produce and sell medical devices,</p>	<p>1 A. I don't -- I don't read that exactly 2 the way you just described it. But that's what that 3 slide says about engaging KOL's, yes. 4 Q. Okay. Well, I guess what we would 5 need to understand my question a little bit better 6 is the understanding -- an understanding of what the 7 company meant by objectives, right? 8 A. Sure. 9 Q. That would sort of help you 10 understand what the company understood, right, or 11 meant in this slide deck? 12 A. Yeah. I mean, there's probably 13 literally hundreds of thousands of objectives that 14 take place within a company so -- and we had 15 specific objectives within Prof Ed. There's many 16 objectives within the organization. 17 Q. Right. Well, the good thing for us 18 is that, if you turn to the next page, Ethicon was 19 kind enough to define the objective for us in this 20 Power Point presentation or this slide deck, okay. 21 So let's turn to the next page. 22 A. The next page? Oh, you were on this 23 page here, right? 24 Q. Yeah. 25 A. Okay.</p>

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<p>1 Q. It says, "Ethicon Women's Health and 2 Urology 2009," right? 3 A. Yes. 4 Q. And it says, "Priorities, build 5 exceptional global leadership and organizational 6 capabilities." Do you see that? 7 A. Yes. 8 Q. And then it has "objectives" 9 underneath that. Do you see that? 10 A. Yes. 11 Q. And the first one is, "continue to 12 build credo-based global leadership -- 13 A. That is correct. 14 Q. -- and employee engagement." 15 The second one says, "ensure business 16 continuity for critical brands," right? 17 A. Yes, I see that. 18 Q. "Execute a sustainable portfolio 19 management process, define capital and 20 electromechanical strategic plans to support 21 business growth," right? 22 A. Yes. 23 Q. I mean, what do we mean by "business 24 growth"? 25 A. I assume that means grow the</p>	<p>1 KOL strategy plan was to grow the business. Those 2 are not my words. I'm not making it up, right? You 3 see it there on that slide, right? 4 A. I do. Yeah, I do. 5 Q. Is it still your testimony that KOL's 6 weren't used as part of a marketing tool or was 7 there some marketing involved? 8 A. I would say that marketing, 9 absolutely, worked with KOL's, that is true. 10 Q. Look, I don't have a problem -- I 11 don't think anybody has a problem with having a plan 12 that -- a business plan that you make money from, 13 right? 14 A. Correct. I would agree. 15 Q. But when -- it becomes a problem, 16 wouldn't you agree, when the objective of making 17 money becomes more important than providing for 18 patient safety? 19 A. I would agree. 20 Q. So if you turn three slides later. 21 So here is a list of key opinion leaders, right? 22 A. Yes. 23 Q. And they -- by category as the 24 earlier slide had shown, right? 25 A. (No response.)</p>
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<p>1 business, yeah, just support and help our customers 2 with our products and sell. 3 Q. Alright. And, of course, you want to 4 keep the credo at the forefront, right? 5 A. Always. 6 Q. But you also want to make money, 7 right? 8 A. We are -- 9 MR. COMBS: Object to the form. 10 A. Yes, we do want to sell our products. 11 That's true. 12 Q. Right. And you want to -- one of the 13 objectives of engaging key opinion leaders and 14 partnering with key opinion leaders is to grow the 15 business? 16 A. Again, like we stated before and I've 17 mentioned before, in Professional Education working 18 with KOL's and faculty is about training. It's 19 about teaching. Sales are a result, potentially, 20 not always, potentially of training. So I don't -- 21 and growth, sales -- 22 Q. Those aren't my words. 23 A. No, I -- 24 Q. These are words within an Ethicon 25 created document and one of these objectives of this</p>	<p>1 Q. Do you see that? 2 A. Yes, across the top. 3 Q. I'm not going to go every one of 4 these key opinion leaders. But look at a couple of 5 them real quick, okay? 6 A. Sure. 7 Q. You see the top ten KOL's, right? 8 A. Top ten. 9 Q. Has your -- the physician listed or 10 surgeon listed first in the top ten happens to be 11 your top dog, right? 12 A. That's Dr. Lucente's name, yes. 13 Q. And that's not my language, right, 14 top dog, that's your language, right? 15 A. That's correct. 16 Q. So you've got Lucente, Sepulveda? 17 A. Sepulveda, yes. 18 Q. Sepulveda, sorry. 19 A. That's okay. 20 Q. Brown, Raders, Rogers, Aguirre? 21 A. Aguirre. 22 Q. Aguirre, thank you; Hsieh, Hsieh? 23 A. Hsieh. 24 Q. Rosenblatt? 25 A. (No response.)</p>

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<p>1 Q. Mendelovici?</p> <p>2 A. Yes.</p> <p>3 Q. Mickey Karram?</p> <p>4 A. Yes.</p> <p>5 Q. Van Drie?</p> <p>6 A. (No response.)</p> <p>7 Q. Khandwala?</p> <p>8 A. Uh-huh.</p> <p>9 Q. And Karram again. Karram is listed</p> <p>10 twice, right?</p> <p>11 A. Yes.</p> <p>12 Q. He's top ten twice.</p> <p>13 A. He actually has a brother.</p> <p>14 Q. Oh, yeah.</p> <p>15 A. That's Michael Karram.</p> <p>16 Q. Michael and Mickey?</p> <p>17 A. That's correct.</p> <p>18 Q. Okay. Were they partners?</p> <p>19 A. I don't believe they're in the same</p> <p>20 practice. They are related by blood, though, and in</p> <p>21 the same city.</p> <p>22 Q. I've seen Mickey a lot, but I haven't</p> <p>23 seen Mikey that much in the documents. But I'll</p> <p>24 have to pay attention to that.</p> <p>25 A. Michael, yes.</p>	<p>1 A. I do.</p> <p>2 Q. And you said we were proactive,</p> <p>3 right? And I showed the president's letter, Renee</p> <p>4 Selman, who said, don't proactively share this</p> <p>5 information with customers. Do you remember that</p> <p>6 information yesterday?</p> <p>7 MR. COMBS: Object to form.</p> <p>8 A. I do. I do.</p> <p>9 Q. So let's see what Ethicon did after</p> <p>10 the public health notification through the</p> <p>11 Professional Education department. You proactively</p> <p>12 did something, I know that. So let the jury see</p> <p>13 what you did.</p> <p>14 MR. THORNBURGH: So go ahead pull up</p> <p>15 01706065.</p> <p>16 (Deposition Exhibit No. T752, 37-page Slide</p> <p>17 deck the Science of "What's Left Behind"... Evidence</p> <p>18 &amp; Follow-Up of Mesh Use for SUI Doug H. Grier</p> <p>19 ETH.MESH.01706065, was marked for identification.)</p> <p>20 MR. THORNBURGH: We'll mark this as</p> <p>21 Exhibit 752.</p> <p>22 I have a copy for you, too.</p> <p>23 MR. COMBS: Thanks.</p> <p>24 Q. Doug Grier, right?</p> <p>25 A. That's correct.</p>
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<p>1 Q. Michael and Mickey, alright.</p> <p>2 Then I want to point your attention</p> <p>3 -- I'm not going to go through all these people</p> <p>4 because I'm trying to shorten my time here today.</p> <p>5 But if you turn to, I think, three slides</p> <p>6 later. It says, "top ten," right, do you see that?</p> <p>7 A. I do.</p> <p>8 Q. And the fourth person down is Doug</p> <p>9 Grier, right, do you see his name thee?</p> <p>10 A. Yes.</p> <p>11 Q. And so he was one of your top KOL's?</p> <p>12 A. Yeah, he was a KOL that we used,</p> <p>13 yeah.</p> <p>14 Q. And one of his functions was to be,</p> <p>15 basically, Ethicon's mouthpiece for marketing</p> <p>16 purposes, right?</p> <p>17 MR. COMBS: Object to the form.</p> <p>18 A. I wouldn't say that.</p> <p>19 Q. Okay. Well, he, certainly, was used</p> <p>20 in a marketing role, right?</p> <p>21 A. I'm not aware of him working in a</p> <p>22 marketing role for Ethicon.</p> <p>23 Q. Remember yesterday when we left we</p> <p>24 talked about how did Ethicon respond after the</p> <p>25 public health notification, do you remember that?</p>	<p>1 Q. That's the presenter listed here on</p> <p>2 this slide deck?</p> <p>3 A. That's correct.</p> <p>4 Q. And the slide deck is called, "The</p> <p>5 Science of What's Left Behind. Evidence of</p> <p>6 follow-up of mesh use for SUI." And it says, "Doug</p> <p>7 H. Grier, MD, Sound Urological Associates, PS,</p> <p>8 Edmonds, Washington." That's what it says, right?</p> <p>9 A. It does.</p> <p>10 Q. Does it say one of Ethicon's top ten</p> <p>11 key opinion leaders?</p> <p>12 A. No, it does not.</p> <p>13 Q. Does it say a paid consultant for</p> <p>14 Ethicon?</p> <p>15 A. Not on this slide, no.</p> <p>16 Q. No, there is no disclosure here in</p> <p>17 this slide -- and we'll look at the other ones.</p> <p>18 But there is no disclosure here that Dr.</p> <p>19 Grier was a paid spokesman for Ethicon, instead they</p> <p>20 show his Sound Urological Associates PS private</p> <p>21 practice on this front page, right?</p> <p>22 A. Yeah, I believe that's the name of</p> <p>23 his practice, yes.</p> <p>24 Q. Well, did this go through copy</p> <p>25 approval?</p>

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<p>1 A. I can't verify that but looking at</p> <p>2 that. But if he presented this at a Prof Ed event,</p> <p>3 I'm sure it did.</p> <p>4 Q. Okay. So copy approval at Ethicon</p> <p>5 could have said, you know what, we better make sure</p> <p>6 that the preceptees or the other surgeons who are</p> <p>7 attending this Professional Education program know</p> <p>8 that Dr. Grier is a paid consultant, a top ten dog?</p> <p>9 MR. COMBS: Object to the form.</p> <p>10 A. I've been too many --</p> <p>11 Q. That wasn't my question. My question</p> <p>12 was regarding this slide, okay, so answer my</p> <p>13 question.</p> <p>14 A. Sure.</p> <p>15 Q. Regarding this slide, if it went</p> <p>16 through Professional Education or if it went through</p> <p>17 the copy approval process --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- the copy approval people at</p> <p>20 Ethicon could have said, we should make a disclosure</p> <p>21 about Doug Grier's financial ties to our company,</p> <p>22 right?</p> <p>23 A. Yes.</p> <p>24 Q. But it's not there?</p> <p>25 A. Not on that slide, no.</p>	<p>1 in the light of increased scrutiny of mesh, the</p> <p>2 question is which mesh is best? Which brings us to</p> <p>3 are all meshes the same?" Right, that's what it</p> <p>4 says?</p> <p>5 A. Yes.</p> <p>6 Q. And if you turn the page -- this is</p> <p>7 the slide I like because we've got a paid consultant</p> <p>8 for Ethicon who is receiving -- how much money do</p> <p>9 you think he made in 2010?</p> <p>10 A. I have no idea.</p> <p>11 Q. Could you guess?</p> <p>12 A. In 2008?</p> <p>13 Q. 2010.</p> <p>14 A. In 2010? Actually, I couldn't even</p> <p>15 venture a guess, because like I said, I was out of</p> <p>16 the country and I don't know.</p> <p>17 Q. Alright. So this doctor who for all</p> <p>18 intents and purposes appears to be an independent</p> <p>19 doctor. If you're, you know, an attendee, you don't</p> <p>20 yet know from this slide deck that he was a paid</p> <p>21 consultant for Ethicon and one of Ethicon's top ten</p> <p>22 KOL's, right?</p> <p>23 MR. COMBS: Object to the form.</p> <p>24 A. What's the question?</p> <p>25 Q. So we don't know yet from this slide</p>
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<p>1 Q. Alright. So let's turn the page.</p> <p>2 By the way, the copy approval date for this</p> <p>3 is three months, approximately, three months after</p> <p>4 the public health notification of 2010, okay?</p> <p>5 A. Okay, sure.</p> <p>6 Q. It says, "Navigating the Mesh Maze.</p> <p>7 How do I deal with the competing messages</p> <p>8 surrounding mesh? Goal is safe and effective</p> <p>9 treatment for patients with SUI."</p> <p>10 A. Yes.</p> <p>11 Q. "FDA has issued a public health</p> <p>12 notification warning about risks of mesh. Patients</p> <p>13 are concerned about mesh implant. How do I minimize</p> <p>14 my risk?" Right?</p> <p>15 So those look like the topics that may be</p> <p>16 discussed during Doug Grier's presentation here,</p> <p>17 right?</p> <p>18 A. Yes.</p> <p>19 Q. And the notes say we've got --</p> <p>20 MR. THORNBURGH: I'll tell you when I</p> <p>21 want something to be highlighted or blown up.</p> <p>22 Q. It says, "We've gone from mesh, no</p> <p>23 mesh to which delivery system is best. So you chose</p> <p>24 to treat female SUI with mesh because of the high</p> <p>25 efficiency and low recurrence and complication. Now</p>	<p>1 deck, from the slide decks that we looked at, that</p> <p>2 Doug Grier is a paid consultant for Ethicon?</p> <p>3 MR. COMBS: Object to the form.</p> <p>4 A. No, you don't see that on this slide,</p> <p>5 that is correct.</p> <p>6 Q. None of the slides so far say he's a</p> <p>7 top ten KOL, right?</p> <p>8 A. That is correct.</p> <p>9 Q. None of them have disclosed how much</p> <p>10 money he has made?</p> <p>11 A. That is correct.</p> <p>12 Q. So here we go, FDA public health</p> <p>13 notification, October 20th, 2008. It says, "Serious</p> <p>14 complications with mesh use in pelvic floor repair</p> <p>15 and SUI repair."</p> <p>16 It says, "A thousand complications</p> <p>17 encompassing nine mesh manufacturers reported in the</p> <p>18 last few years. FDA recommendations," and there is</p> <p>19 a list of recommendations, right, do you see that?</p> <p>20 A. Yes, I do.</p> <p>21 Q. But the notes, right -- so the notes</p> <p>22 -- you built some Power Point slides before, right?</p> <p>23 A. I have.</p> <p>24 Q. The notes help the presenter present</p> <p>25 information to the people who are attending the</p>

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<p>1 Professional Education event, right?</p> <p>2 A. They can be used, absolutely, in that</p> <p>3 way.</p> <p>4 Q. So he says to the audience, "As you</p> <p>5 can see several of the FDA recommendations impact</p> <p>6 the information we as physicians should be sharing</p> <p>7 with our patients. Patients should receive patient</p> <p>8 labeling for the mesh implant. Patients should be</p> <p>9 informed of risks."</p> <p>10 MR. THORNBURGH: Then I want you to</p> <p>11 highlight this part, okay.</p> <p>12 Q. "I use TVT, which has been studied</p> <p>13 more than any sling, so it's clear what risks exist.</p> <p>14 Look what happened with IVS Tunneller, it claimed to</p> <p>15 be just like TVT, yet it clearly was not and it</p> <p>16 demonstrated erosion rates in the upper teens.</p> <p>17 Patients should be informed that mesh is</p> <p>18 permanent. Put simply, it's what's left behind that</p> <p>19 matters. In 11.5 years of follow-up with</p> <p>20 TVT-Retropubic, there were no late onset</p> <p>21 complications, which is important to know, since not</p> <p>22 all complications occur immediately, some may</p> <p>23 develop over time.</p> <p>24 I have and many of my peers have changed the</p> <p>25 way we counsel our patients, the way we chose mesh</p>	<p>1 Q. It's not in the notes, right?</p> <p>2 A. I just answered, no, it is not in the</p> <p>3 notes.</p> <p>4 MR. COMBS: Were you finished with</p> <p>5 your answer before he interrupted you while you were</p> <p>6 answering the question he actually asked you?</p> <p>7 MR. THORNBURGH: That was my only</p> <p>8 question.</p> <p>9 MR. COMBS: No, it wasn't.</p> <p>10 MR. THORNBURGH: Well, I struck my</p> <p>11 question and I rephrased it.</p> <p>12 MR. COMBS: Okay.</p> <p>13 MR. THORNBURGH: You'll have time to</p> <p>14 ask questions.</p> <p>15 MR. COMBS: Yeah, I understand.</p> <p>16 MR. THORNBURGH: I'm trying to get</p> <p>17 through this so that we can try to meet your</p> <p>18 demands.</p> <p>19 MR. COMBS: Okay.</p> <p>20 Mr. Pattyson, were you finished answering</p> <p>21 the question that was asked?</p> <p>22 THE WITNESS: No, I was not.</p> <p>23 MR. COMBS: Okay.</p> <p>24 MR. THORNBURGH: I struck my</p> <p>25 question.</p>
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<p>1 implants and the way we value data."</p> <p>2 So this is a paid consultant for Ethicon</p> <p>3 saying -- who's probably had some influence in his</p> <p>4 community who is saying, I use TVT but he doesn't</p> <p>5 say, by the way, I'm also being paid for the</p> <p>6 company -- paid by the company, right?</p> <p>7 MR. COMBS: Object to the form.</p> <p>8 A. I wasn't --</p> <p>9 Q. Not in this slide, it's not in this</p> <p>10 slide, right?</p> <p>11 A. No.</p> <p>12 Q. It's not in the notes here, right?</p> <p>13 A. You asked me if he had said that.</p> <p>14 Q. Right. Well, it's not in the notes.</p> <p>15 A. And I don't think he said that.</p> <p>16 Q. Well, it's not here in the notes</p> <p>17 here, right?</p> <p>18 A. I don't see it in the notes, that is</p> <p>19 correct.</p> <p>20 MR. COMBS: Let him answer the</p> <p>21 question.</p> <p>22 Q. I'm sorry. It's not in the notes,</p> <p>23 right?</p> <p>24 MR. COMBS: He's permitted to answer</p> <p>25 the question that's asked.</p>	<p>1 MR. COMBS: Answer -- provide the</p> <p>2 remainder of the answer to the question that was</p> <p>3 asked.</p> <p>4 Q. Were you at this presentation?</p> <p>5 A. I don't know when this was presented</p> <p>6 so...</p> <p>7 Q. Did you attend any presentations in</p> <p>8 Edmonds, Washington?</p> <p>9 A. No, I did not.</p> <p>10 Q. I'm not sure that that's where this</p> <p>11 was at. But he lists Edmonds, Washington in the</p> <p>12 first page.</p> <p>13 A. That may not be where it was at,</p> <p>14 though. That's where he lived, I believe.</p> <p>15 Q. That's why I struck my question</p> <p>16 because you weren't at this presentation, so you</p> <p>17 wouldn't have known what he could have said, right?</p> <p>18 A. I don't know -- I didn't hear you</p> <p>19 strike the question. I was answering the question,</p> <p>20 did he say this. I said, I have been to events that</p> <p>21 he has answered and said --</p> <p>22 Q. There's not a question pending.</p> <p>23 There's not a question pending.</p> <p>24 MR. COMBS: He is permitted to</p> <p>25 provide the answer to the question that you've</p>

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<p>1 asked.</p> <p>2 MR. THORNBURGH: There's not a</p> <p>3 question pending.</p> <p>4 MR. COMBS: Okay. Look, you don't</p> <p>5 get to just tell him not to answer the question that</p> <p>6 you asked.</p> <p>7 MR. THORNBURGH: There's not a</p> <p>8 question pending. He can't just get on --</p> <p>9 MR. COMBS: Well, just because you</p> <p>10 moved on and just because you keep telling him that</p> <p>11 you've changed your mind about the question you</p> <p>12 asked, he gets to answer the question you asked him.</p> <p>13 MR. THORNBURGH: Listen, there is not</p> <p>14 a question pending.</p> <p>15 MR. COMBS: We're going to stop it.</p> <p>16 MR. THORNBURGH: There's not a</p> <p>17 question pending.</p> <p>18 Q. Alright, go ahead. I'm going to move</p> <p>19 to strike whatever you say. And so go ahead and say</p> <p>20 --</p> <p>21 MR. COMBS: We'll put on the record</p> <p>22 before you even say it that Mr. Thornburgh has</p> <p>23 reserved his right to strike it.</p> <p>24 The witness is permitted to answer the</p> <p>25 questions.</p>	<p>1 to Dr. Grier, did he say that at an event. And I</p> <p>2 have been at events with Dr. Grier. I don't know</p> <p>3 when this was presented. However, I've heard him</p> <p>4 many times, as well as many of our clinicians,</p> <p>5 disclose that they are a paid consultant of Ethicon.</p> <p>6 MR. THORNBURGH: Okay. Move to</p> <p>7 strike, nonresponsive and move to strike hearsay.</p> <p>8 Q. Okay. So we'll move on.</p> <p>9 It's not listed in these notes on this Power</p> <p>10 Point slide, right?</p> <p>11 A. No.</p> <p>12 Q. And we haven't seen it listed</p> <p>13 anywhere on the Power Point slide yet, right?</p> <p>14 A. I haven't seen it, no.</p> <p>15 Q. And did you attend this event?</p> <p>16 A. I don't know -- I've seen this slide</p> <p>17 deck before. But I don't know which event you're</p> <p>18 referring to. So he might have done this at more</p> <p>19 than one event.</p> <p>20 Q. Well, you were out of the country,</p> <p>21 right, until 2013?</p> <p>22 A. That is -- well, I traveled a lot,</p> <p>23 yes. I was in the country, but I did a lot of</p> <p>24 traveling during this timeframe, yes.</p> <p>25 Q. Okay. Did you travel to Washington?</p>
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<p>1 MR. THORNBURGH: Listen --</p> <p>2 MR. COMBS: So --</p> <p>3 MR. THORNBURGH: -- you get to ask --</p> <p>4 MR. COMBS: -- Mr. Pattyson answer</p> <p>5 the question that you were asked.</p> <p>6 MR. THORNBURGH: -- have direct</p> <p>7 examination of your witness.</p> <p>8 MR. COMBS: Of course, I understand</p> <p>9 that.</p> <p>10 MR. THORNBURGH: You can address</p> <p>11 this.</p> <p>12 MR. COMBS: You know as well as I do</p> <p>13 that the rules are the witness gets to explain his</p> <p>14 answer. And just because you're being rude to him</p> <p>15 and interrupting him doesn't mean he doesn't get to</p> <p>16 it.</p> <p>17 MR. THORNBURGH: I'm not trying to be</p> <p>18 rude. I was trying to get through this process so</p> <p>19 that we can get done by the time that you asked us</p> <p>20 to get done by.</p> <p>21 MR. COMBS: Mr. Pattyson, complete</p> <p>22 your answer.</p> <p>23 MR. THORNBURGH: It's not going to</p> <p>24 happen, though.</p> <p>25 A. The question I recall was referring</p>	<p>1 A. I've not traveled to Washington, no.</p> <p>2 Q. Were you attending -- when you were</p> <p>3 traveling out of the country and during this time</p> <p>4 period, were you also attending US Professional Ed</p> <p>5 events in early 2009?</p> <p>6 A. I can't recall. I definitely</p> <p>7 attended events in the US, yes.</p> <p>8 Q. But you don't know if you did in</p> <p>9 early 2009?</p> <p>10 A. I don't recall in early 2009, no.</p> <p>11 Q. And that's during the time period</p> <p>12 that you were traveling a lot?</p> <p>13 A. During the span -- yes, 2008 to 2012</p> <p>14 to '13.</p> <p>15 Q. Traveling outside of the country?</p> <p>16 A. Yes.</p> <p>17 Q. Alright. Okay. So I want you to</p> <p>18 tell me when we come to a slide deck that discloses</p> <p>19 Dr. Grier's financial relationship with the company,</p> <p>20 okay?</p> <p>21 A. Okay.</p> <p>22 Q. So if you see it, tell me.</p> <p>23 A. Sure.</p> <p>24 Q. Okay. "Implications of FDA public</p> <p>25 health notification. So we should be counseling</p>

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<p>1 patients when selecting a sling, what is left behind</p> <p>2 matters more than the delivery system. Meshes are</p> <p>3 different and should be assessed by their own</p> <p>4 clinical outcomes. In a category such as slings</p> <p>5 where Level 1 evidence exists that proven safety and</p> <p>6 efficacy, why accept a mesh without outcomes data."</p> <p>7 A. Yes.</p> <p>8 Q. And then so if you turn two slides</p> <p>9 in, Slide 6, so this is a microscopic image of mesh</p> <p>10 samples. It says, "All are polypropylene but meshes</p> <p>11 have differences," right?</p> <p>12 A. That's what it says, yes.</p> <p>13 Q. And so it shows Ethicon's on the top</p> <p>14 left and AMS, Boston Scientific and Bard.</p> <p>15 A. That's correct.</p> <p>16 Q. Turn to the next slide.</p> <p>17 In the notes field, right, that's the field</p> <p>18 that you said is -- allows the presenter or helps</p> <p>19 the presenter present information. It says,</p> <p>20 "Ethicon's products Prolene polypropylene is the</p> <p>21 trusted brand in 9 out of 10 sutures used and is the</p> <p>22 same formula for the past 40 years." That's what it</p> <p>23 says, right?</p> <p>24 A. That's what it says.</p> <p>25 Q. It sounds like a commercial, doesn't</p>	<p>1 mesh and then it goes down to "Ethicon's products</p> <p>2 Prolene polypropylene is the trusted brand in</p> <p>3 85 percent of sutures used and is the same formula</p> <p>4 for the past 40 years. AMS has been used in 40,000</p> <p>5 patients. Boston Scientific has been used in</p> <p>6 300,000 patients. Most meshes are not supported by</p> <p>7 level one evidence." Do you see that?</p> <p>8 A. Yeah. I'm sorry, I see 400,000.</p> <p>9 Q. 400,000 sorry. I read it wrong.</p> <p>10 AMS has been used in 400,000 patients,</p> <p>11 alright.</p> <p>12 So it's saying, "Ethicon's Prolene</p> <p>13 polypropylene mesh has been used in 1.5 million</p> <p>14 patients," right?</p> <p>15 A. Yes, above I see that.</p> <p>16 Q. And then he says or it's written</p> <p>17 here, Ethicon's product is the trusted brand in</p> <p>18 85 percent of sutures used and is the same formula</p> <p>19 for the past 40 years. Do you see that?</p> <p>20 A. I didn't hear what you first said.</p> <p>21 But I think that Ethicon's products, Prolene, the</p> <p>22 Prolene sutures it's referring to.</p> <p>23 Q. Yeah. "Ethicon's products Prolene</p> <p>24 polypropylene is the trusted brand at 85 percent of</p> <p>25 sutures." It's what it says, right?</p>
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<p>1 it?</p> <p>2 A. Not to me.</p> <p>3 Q. I wonder if it sounds like a</p> <p>4 commercial to the jury?</p> <p>5 MR. COMBS: Objection to counsel's</p> <p>6 colloquy.</p> <p>7 Q. Let's turn the page. You see any</p> <p>8 disclosure that says, hey, by the way, I'm a paid</p> <p>9 consultant by Ethicon?</p> <p>10 A. No, I do not.</p> <p>11 Q. Hey, by the way, I'm a top ten KOL,</p> <p>12 does it say that here yet?</p> <p>13 A. No, I do not see that.</p> <p>14 Q. Okay. Let's turn the page. Gynecare</p> <p>15 TVT -- next page, sorry. I think you went too --</p> <p>16 hold on. Next page.</p> <p>17 All these slides say "Gynecare TVT," right?</p> <p>18 MR. COMBS: Object to the form.</p> <p>19 A. I haven't been through all the</p> <p>20 slides.</p> <p>21 Q. Not all the slides, but the slide</p> <p>22 right here, top left-hand corner, "Gynecare TVT</p> <p>23 Tension-Free Support For Incontinence Mesh summary,"</p> <p>24 right?</p> <p>25 And it shows some information about the TVT</p>	<p>1 A. It sure does, yes.</p> <p>2 Q. That's kind of why I was asking you</p> <p>3 questions about the sutures, right?</p> <p>4 A. Okay.</p> <p>5 Q. Because you've seen within Ethicon</p> <p>6 and Ethicon's key opinion leaders use the Ethicon</p> <p>7 sutures, polypropylene sutures, when they try to or</p> <p>8 when they're promoting the Ethicon products, right?</p> <p>9 When they're promoting TVT, you've seen Ethicon or</p> <p>10 its key opinion leaders say the Ethicon products</p> <p>11 Prolene polypropylene is the trusted brand in</p> <p>12 85 percent of Ethicon sutures and has been the same</p> <p>13 formula for 40 years, you've seen that type of</p> <p>14 information before, right?</p> <p>15 A. Yes, that was a very long sentence so</p> <p>16 I --</p> <p>17 Q. Yeah. You've seen Ethicon refer to</p> <p>18 its polypropylene sutures when trying to support the</p> <p>19 safety of the TVT products?</p> <p>20 MR. COMBS: Object to form.</p> <p>21 A. I've -- on this slide, I see it</p> <p>22 referring to Prolene, which my understanding -- I</p> <p>23 don't work in R&amp;D, but I understand the suture</p> <p>24 material Prolene, which is a suture closure</p> <p>25 material, is the same material used in TVT, yes,</p>

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<p>1 that's my understanding.</p> <p>2 Q. Right. And that's why I was asking</p> <p>3 you yesterday about the sutures that you had some</p> <p>4 experience with in the manufacturing plant.</p> <p>5 A. Okay.</p> <p>6 Q. Were you not manufacturing</p> <p>7 polypropylene sutures?</p> <p>8 A. Yes, I worked with Vicryl, PDS and</p> <p>9 Monocryl.</p> <p>10 Q. That's what I thought. So anyway --</p> <p>11 A. Which is not Prolene, by the way.</p> <p>12 Q. Okay. So you didn't work with</p> <p>13 Prolene polypropylene sutures?</p> <p>14 A. I worked with Vicryl, PDS and</p> <p>15 Monocryl. Yeah, Prolene was manufactured in another</p> <p>16 plant.</p> <p>17 Q. Okay. That's what I was trying to</p> <p>18 figure out yesterday but...</p> <p>19 A. Okay.</p> <p>20 Q. And the next page says, "Level of</p> <p>21 Evidence. Level of evidence is, basically, a rating</p> <p>22 system to assess the validity and weight of clinical</p> <p>23 trials. There are three levels of evidence, level</p> <p>24 one has the most weight."</p> <p>25 And then if you go to the next page, it,</p>	<p>1 Q. Does it say, by the way, I'm a paid</p> <p>2 consultant for Ethicon?</p> <p>3 A. No, I do not see that.</p> <p>4 Q. Okay. If you go to Slide 19. Now</p> <p>5 we've got Dr. Grier providing data for the</p> <p>6 transobturator sling, right?</p> <p>7 A. Yeah, I think we're looking at</p> <p>8 different slides.</p> <p>9 Q. Oh, are we?</p> <p>10 A. That's Slide 19.</p> <p>11 Q. Yeah. Transobturator --</p> <p>12 A. Oh, yeah, I'm sorry.</p> <p>13 Q. So --</p> <p>14 A. Okay.</p> <p>15 Q. Alright. So now we've got</p> <p>16 transobturator level one evidence that's discussed</p> <p>17 by Dr. Grier. Do you see that on the next page?</p> <p>18 A. I do.</p> <p>19 Q. Does it say, by the way, I'm a paid</p> <p>20 consultant for Ethicon?</p> <p>21 A. No, it does not.</p> <p>22 Q. Go to Slide 22. Alright. So, again,</p> <p>23 talking about Obturator slings and Gynecare TVT.</p> <p>24 And we've got the note section here where he's</p> <p>25 comparing Obturator TVT to AMS Monarch, do you see</p>
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<p>1 again, is an evidence pyramid here. We can skip</p> <p>2 over that.</p> <p>3 Let's go to the next slide after that, after</p> <p>4 that one. Okay. It says, "Overview of level one</p> <p>5 evidence, retropubic slings." And then it says, the</p> <p>6 FDA -- in the notes field, "FDA has increased</p> <p>7 scrutiny of mesh safety and efficacy which</p> <p>8 underscores the need for level one evidence. Here</p> <p>9 is an overview of level one evidence in the</p> <p>10 retropubic sling category. The Gynecare TVT family</p> <p>11 of products has the most level one data and has</p> <p>12 follow-up data of 11.5 years." That's what it says,</p> <p>13 right?</p> <p>14 A. Yes, that's what it says.</p> <p>15 Q. Does it say after that sentence, by</p> <p>16 the way, I'm a paid consultant for Ethicon?</p> <p>17 A. No, I do not see that.</p> <p>18 Q. Next slide. It says, "There are four</p> <p>19 RCT's comparing Gynecare TVT retropubic to SPARC.</p> <p>20 Gynecare TVT is superior to SPARC in the following</p> <p>21 areas: Higher efficacy in all RCT's, (even in Lord</p> <p>22 study with equal objective cure rate), fewer</p> <p>23 complications with statistically lower erosion rates</p> <p>24 in the Lim study." Do you see that?</p> <p>25 A. I do.</p>	<p>1 that?</p> <p>2 A. Yes.</p> <p>3 Q. And he says Obturator -- TVT</p> <p>4 Obturator Gynecare -- J&amp;J -- sorry -- Ethicon</p> <p>5 Obturator device, that's what we're talking about</p> <p>6 here, right?</p> <p>7 A. Yeah, it doesn't say Ethicon here.</p> <p>8 Q. It says, Gynecare TVT. But that's</p> <p>9 Ethicon's TVT-Obturator, right?</p> <p>10 A. That's correct, yes.</p> <p>11 Q. Okay. So the jury -- there is no</p> <p>12 confusion.</p> <p>13 A. No, no, I understood.</p> <p>14 Q. Alright. So it says, "Gynecare TVT</p> <p>15 Obturator has 9 RCT's studying outcomes in over 600</p> <p>16 patients. In this group there were no reported</p> <p>17 perforations of the bladder, urethra or ureter. AMS</p> <p>18 Monarch has 4 RCT's studying the outcomes in over</p> <p>19 300 patients. In this group, there are several</p> <p>20 reports of urethral and urinary perforations."</p> <p>21 So he's saying Ethicon's Obturator system</p> <p>22 has more studies and is safer?</p> <p>23 A. I think -- what I see here is he's</p> <p>24 comparing nine RCT's on TVT-Obturator and four RCT's</p> <p>25 on AMS Monarch and he summarized briefly the results</p>

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<p>1 of that study.</p> <p>2 Q. Right. Does it say anywhere in here</p> <p>3 that studies have found that Gynecare TVT-Obturator</p> <p>4 system places patients at a greater risk of</p> <p>5 suffering leg pain from nerve damage than the other</p> <p>6 Obturator systems on the market, including Monarch?</p> <p>7 MR. COMBS: Object to the form.</p> <p>8 A. No, it does not say that on this</p> <p>9 slide.</p> <p>10 Q. And does it say that he's a paid</p> <p>11 consultant for Ethicon?</p> <p>12 A. No, it does not.</p> <p>13 Q. Alright. I'm not going to go through</p> <p>14 this whole slide deck but go to 25.</p> <p>15 So now he's providing data on the TVT-Secur</p> <p>16 or single incision slings?</p> <p>17 A. That's correct.</p> <p>18 Q. Right? Which includes the TVT-Secur,</p> <p>19 right?</p> <p>20 A. I presume so, yes.</p> <p>21 Q. So, if you turn the page, he compares</p> <p>22 here the TVT-Obturator to the TVT-Secur, right?</p> <p>23 A. Not on the slide, no.</p> <p>24 Q. Well, in the notes here it says that,</p> <p>25 "RCT showed TVT Obturator to have 93 percent cure</p>	<p>1 attending -- when I was attending them relative to</p> <p>2 TVT-Secur, I do recall speaking about the cure rate</p> <p>3 being less for TVT-Secur, yes.</p> <p>4 Q. And this RCT -- 38 percent of the</p> <p>5 women who had permanent TVT-Secur devices implanted</p> <p>6 in them didn't -- weren't cured, right?</p> <p>7 A. I'm not as familiar with this RCT</p> <p>8 he's referring to. But it has 32 percent cure rate,</p> <p>9 which is less, yes.</p> <p>10 Q. Which means 32 percent didn't --</p> <p>11 weren't cured, right?</p> <p>12 A. Again, I'm not a surgeon. So I can't</p> <p>13 speak on what the study speaks to. I'm just reading</p> <p>14 that slide as you've asked me to and, yes, that's</p> <p>15 what it says.</p> <p>16 Q. On 29 Dr. Grier says, "The TVT-Secur</p> <p>17 system is the most outcomes data and commitment to</p> <p>18 level one evidence."</p> <p>19 What does that mean, "commitment to level</p> <p>20 one evidence"?</p> <p>21 A. You know, I don't know what he meant</p> <p>22 by that. I can only imagine for a single incision</p> <p>23 sling it is the most -- has the most data relative</p> <p>24 to outcomes and it had active RCT's. That's how I</p> <p>25 interpret that.</p>
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<p>1 rate and TVT-Secur to have a 62 percent cure rate.</p> <p>2 There are three additional RCT's that are currently</p> <p>3 underway."</p> <p>4 A. I do see that, yes.</p> <p>5 Q. It sounds like the TVT-Secur isn't</p> <p>6 very effective?</p> <p>7 MR. COMBS: Object to form.</p> <p>8 A. I see it has a lower cure rate here</p> <p>9 on this -- in this footnote, yes.</p> <p>10 Q. It's 31 percent lower cure rate,</p> <p>11 right?</p> <p>12 A. That's what I see, yes, in referring</p> <p>13 to this RCT, yeah.</p> <p>14 Q. Alright. What do you think Ethicon</p> <p>15 was telling physicians in their advertising and</p> <p>16 promotional pieces?</p> <p>17 A. What do I think in our advertising</p> <p>18 pieces?</p> <p>19 Q. Yes, in early 2009, wouldn't you</p> <p>20 agree that Ethicon was telling doctors that in their</p> <p>21 promotional pieces that, hey, look TVT-Secur is safe</p> <p>22 and effective?</p> <p>23 A. I can't refer -- I can't speak on</p> <p>24 behalf of all of the advertising pieces for the</p> <p>25 company. But specific to these events that I was</p>	<p>1 Q. And he says, "64 percent greater mesh</p> <p>2 slip force for more secure implantation," right?</p> <p>3 A. That's what it says, yes.</p> <p>4 Q. So if you go -- I'm going to end with</p> <p>5 this slide, 31. I'm going to end with this exhibit.</p> <p>6 It says, "Why I chose Gynecare TVT family of</p> <p>7 products tension free support for incontinence.</p> <p>8 It's what's left behind that matters. The mesh</p> <p>9 delivers proven safety and efficacy with level one</p> <p>10 evidence. The mesh has been implanted in over</p> <p>11 1.5 million patients and the mesh has longest</p> <p>12 follow-up data of 11.5 years." And then he cites --</p> <p>13 see the footnote there five, he's citing to the</p> <p>14 Nilsson and Rezapour and Falconer study?</p> <p>15 A. Yes, I see that.</p> <p>16 Q. Alright. Does he say, hey, by the</p> <p>17 way, Nilsson and Rezapour are paid consultants of</p> <p>18 Ethicon?</p> <p>19 MR. COMBS: Object to the form.</p> <p>20 A. No, it does not say that.</p> <p>21 Q. And this is 2009. Did you have any</p> <p>22 understanding that in 2009 Nilsson and Rezapour were</p> <p>23 paid consultants for Ethicon?</p> <p>24 MR. COMBS: Object to form.</p> <p>25 A. No, I didn't.</p>

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<p>1 Q. And it's not disclosed here on the</p> <p>2 document, right?</p> <p>3 A. No, I do not see that.</p> <p>4 Q. But that's the data that's being used</p> <p>5 to support the safety and efficacy of the product?</p> <p>6 A. That is the data that's referenced</p> <p>7 here is 11 and a half year data that was performed,</p> <p>8 I presumed, by this group of surgeons and probably</p> <p>9 others.</p> <p>10 Q. So he says, "I chose Gynecare TVT</p> <p>11 products. Here's why." And then in the notes he</p> <p>12 says, "In light of increased mesh scrutiny, chose</p> <p>13 the mesh with the most proven safety and efficacy."</p> <p>14 A. Yes, that's what it says.</p> <p>15 Q. Right? Does it sound like a</p> <p>16 commercial to you?</p> <p>17 MR. COMBS: Object to form.</p> <p>18 A. No.</p> <p>19 Q. Does it say, by the way, I'm a paid</p> <p>20 consultant for Ethicon?</p> <p>21 A. Not on that slide, no.</p> <p>22 MR. THORNBURGH: We got to change the</p> <p>23 tape?</p> <p>24 THE VIDEOGRAPHER: Yeah.</p> <p>25 MR. THORNBURGH: Take a break.</p>	<p>1 witness and then I have a copy for you too, Phil.</p> <p>2 MR. COMBS: This is 753?</p> <p>3 MR. THORNBURGH: Yes.</p> <p>4 MR. COMBS: Okay.</p> <p>5 Q. Alright. So you know Lissette Caro-</p> <p>6 Rosado, right, we talked about her earlier? She was</p> <p>7 the person who was above you in the chain of</p> <p>8 command, right?</p> <p>9 A. Yeah, for a period of time, correct.</p> <p>10 Q. And in 2010 was she still with the</p> <p>11 Professional Education department?</p> <p>12 A. I believe so.</p> <p>13 Q. Okay. So here's Lissette, Miss</p> <p>14 Lissette or, I'm sorry, Miss Caro-Rosado sending an</p> <p>15 e-mail out to a member of folks at Ethicon, right?</p> <p>16 A. Yes.</p> <p>17 Q. And the subject matter is KOL usage,</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And so if you go down to the body of</p> <p>21 the text, Lissette Caro-Rosado is saying, Hey, Ron,</p> <p>22 I don't think that each of us individually can</p> <p>23 determine if we will use -- I'm sorry.</p> <p>24 Yeah, so she's responding to Ron it looks</p> <p>25 like.</p>
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<p>1 THE VIDEOGRAPHER: The time is 10:10.</p> <p>2 This is the end of Disk No. 1. We are going off the</p> <p>3 record.</p> <p>4 (Recess taken 10:10 to 10:26 a.m.)</p> <p>5 THE VIDEOGRAPHER: The time is now</p> <p>6 10:26. This is the beginning of Disk No. 2. We are</p> <p>7 back on the record.</p> <p>8 Q. Okay. So, before we went off the</p> <p>9 record, we were talking about the presentation that</p> <p>10 was given by Dr. Grier following the public health</p> <p>11 notification, right?</p> <p>12 A. That's correct.</p> <p>13 Q. And we talked earlier this morning</p> <p>14 about the Professional Education program at Ethicon</p> <p>15 which included the involvement of key opinion</p> <p>16 leaders, right?</p> <p>17 A. Yes, programs, yes.</p> <p>18 Q. Programs. Let's go ahead and mark as</p> <p>19 Exhibit No. 753 document Bates No.</p> <p>20 ETH.MESH.07386591.</p> <p>21 (Deposition Exhibit No. T753, e-mail string</p> <p>22 ETH.MESH.07386591 &amp; 07386592 marked Confidential</p> <p>23 Subject to Stipulation and Order of Confidentiality,</p> <p>24 was marked for identification.)</p> <p>25 MR. THORNBURGH: That's for the</p>	<p>1 And Ron says on the next page --</p> <p>2 MR. THORNBURGH: Sorry, about that,</p> <p>3 Michael.</p> <p>4 Q. Basically, it says, HCC has different</p> <p>5 internal approval requirements starting next year,</p> <p>6 so we'll need to be more strategic in contracting</p> <p>7 highly used KOLs.</p> <p>8 So there is new HCC requirements, right?</p> <p>9 What does that mean again, healthcare compliance?</p> <p>10 A. That's correct, healthcare</p> <p>11 compliance.</p> <p>12 Q. So because of the new healthcare</p> <p>13 compliance, Ron, who is the US group product</p> <p>14 director for utero health says, because of the HCC</p> <p>15 requirements, we're going to have to be more</p> <p>16 strategic in contracting highly used KOLs.</p> <p>17 And he says, "Any KOL receiving payments of</p> <p>18 more than \$100,000 in a year will need approval from</p> <p>19 Bridget while KOL's receiving payments of more than</p> <p>20 \$250,000 will need to be approved by Gary. Please</p> <p>21 let me know what KOL's on or not on this list that</p> <p>22 you envision surpassing the \$100,000 and \$250,000</p> <p>23 mark. Please when responding consider EWHU as a</p> <p>24 whole. We will then discuss contracting strategies</p> <p>25 for those KOL's."</p>

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<p>1 So he's saying there is a new healthcare 2 compliance issue that's going to require Ethicon to 3 be more strategic in contracting highly used key 4 opinion leaders, right? 5 A. It doesn't say issue. It says some 6 sort of different approval requirements. 7 Q. Okay. So some sort of different 8 approval requirements. So now if you're going to 9 used highly used KOLs, we need to be more strategic? 10 A. That's what it says, yes. 11 Q. Okay. And then if you go up, there's 12 an e-mail from Ron Horton. It says, all -- I'm 13 sorry. I guess -- sorry, I apologize. 14 In Ron Horton's e-mail, he provides a list 15 of key opinion leaders. 16 And so if you go to the next page real 17 quick. Yeah, there you go. 18 He lists a number of key opinion leaders and 19 he list their contract amount for the year of 2010, 20 okay, do you see that on the exhibit? 21 A. I do. 22 Q. It's dated November 19th, 2010. It 23 says, "Please see the below list of highly used 24 KOL's and the total pay that they have received this 25 year."</p>	<p>1 minute. 2 A. Okay. 3 Q. What Lissette says is, "Ron, I don't 4 think that each of us individually can determine if 5 we will use the doctors for more than \$100,000. So 6 what I did was put together a grid that we can fill 7 out considering our planned usage for these doctors 8 per our area. I think that the determining point to 9 more or less than a \$100,000 will be Professional Ed 10 because we spend quite a bit with these doctors on 11 an educational basis. I have included Paul on this 12 e-mail so that he can provide Professional Ed 13 insight." 14 And then she says, "Please put the number of 15 days of usage on the spreadsheet as this help us get 16 to the \$100,000 breakdown. Please note that if most 17 of these doctors are contracted at about \$3,000 per 18 day, that means that anything more than 33 days will 19 mean a contract greater than a \$100,000. I hope 20 this helps." 21 Right, so she's saying if the contract price 22 is \$3,000 per day, usually, an event was a day 23 event, right? 24 A. It varied. Some were half days, some 25 were days.</p>
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<p>1 So this is talking about in the year of 2010 2 up to November 19th how much the top KOL's or the 3 highly used KOL's have been paid, right? 4 A. That's what it says, yes. 5 Q. And so it's got a list of here and 6 109,000 for Ailawadi, Anhalt 104,000, Antar 96,000, 7 and it goes on. It lists Chapa 291,000. 8 And if you look down there, there's Grier. 9 That's the KOL we just talked about, right? 10 A. Yes. 11 Q. And it says \$162,475 in the year 12 2010. 13 A. Yeah. It says that. 14 Now, the only thing I'd comment is it says 15 contract amount. And I know that it does say total 16 they have received this year and it also says 17 contract amount. And I don't know if that's -- 18 typically, when I see that in a header, it's their 19 contracted amount, like it's the total amount. So I 20 don't know what this means. I'm not copied on this 21 e-mail. I don't recall seeing it. So I'm just 22 telling you what I see. 23 Q. Well, maybe if we go up to Lissette's 24 e-mail, it will provide a little bit of context for 25 us, okay. And we'll come back to this grid in a</p>	<p>1 Q. Okay. And so if it's -- she's saying 2 if it's \$3,000 per day, then it's 33 days to make a 3 \$100,000, right? 4 A. It says, yeah, anything more than 33 5 days will be greater -- would mean a contract 6 greater than 100,000. 7 Q. Right. So if you do \$3,000 a day, 8 let's assume that a preceptor does a preceptorship 9 for a day and he or she gets paid \$3,000 for that 10 day, it would take them only 33 days to reach the 11 \$100,000 mark, right? 12 A. Approximately, yes. That's what I... 13 Q. So, these KOL's, potentially, 14 according to this e-mail, could work for just 15 33 days in an entire year and earn \$100,000? 16 A. Depending on their contracted amount, 17 I think, this is an assumption that, you know, a lot 18 or around the \$3,000 range. But, yeah, that would 19 be correct. 20 Q. The assumption is that most of these 21 KOL's are \$3,000? 22 A. Looking at this list, I don't know 23 that all of them are at \$3,000. But that statement, 24 yes, 3 times 33 would be 99 and that's, basically, 25 you're at a hundred so...</p>

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<p>1 Q. So that's a pretty good payday for 2 these dogs who are out presenting Ethicon data to 3 physicians, right, 33 days for \$100,000? 4 MR. COMBS: Object to the form. 5 A. I have no idea where that falls into 6 the income of a surgeon's salary. That's 7 information that they don't tell me about. 8 Q. Let's look at the grid real quick. 9 A. Let's look at what? 10 Q. Let's look at the grid real quick. 11 So we've got Dr. Grier, right, that's the 12 KOL that we discussed and we looked at his 13 presentation? 14 A. That is correct. 15 Q. Alright. And it says that for the 16 year 2010 up to November 19th he made \$162,475, 17 right? 18 A. If that's what he got paid this year 19 per e-mail, that's accurate, yes. 20 Q. And so if we assume that he's getting 21 paid \$3,000 a day, if that's his contract price, how 22 many days would Dr. Grier have had to work in 2010 23 to be paid a \$162,475? 24 A. Short of 66, you know, whatever. 25 Q. 54 days.</p>	<p>1 list, right? 2 A. Based on this list that I'm seeing, 3 yes, it looks like he's the highest paid. 4 Q. And it says his total for that year 5 -- there's still a month left in the year. But his 6 total for that year was \$410,000. And how many days 7 assuming he was working at \$3,000 would it take Dr. 8 Lucente to earn \$410,000 in that year? 9 A. You're testing my math today. 10 Q. 136 days. 11 A. Thank you for the help. 12 Q. How many months is 136 days? 13 A. It's three and a half months maybe. 14 Q. Less than six months, right? 15 A. (No response.) 16 Q. It's about four and a half months. 17 So if Dr. Lucente, your top dog, is being paid 18 \$3,000 a month -- or I'm sorry, \$3,000 a day for a 19 preceptorship or an event, and he makes that much 20 money, he's only worked that year 136 days or, 21 approximately, 4.5 months, right? 22 MR. COMBS: Object to the form. 23 Q. If he's earning more than that, if 24 his contract price is more than \$3,000 a day, then 25 he's actually working less than four and a half</p>
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<p>1 A. 54 days. 2 Q. Less than two months, right? 3 A. Sure, that's correct. 4 Q. And so let's turn the page. And 5 these are your top dogs, right? 6 MR. COMBS: Object to counsel's 7 statement. 8 Q. That's not my words. Your words were 9 our top dog -- 10 A. I was referring to another physician 11 when I used the term top dog, yes. 12 Q. Well, top -- the top dog amongst 13 other dogs, right? 14 A. That's not what I meant. No, I just 15 meant he was the top dog. 16 Q. The only way if you're the top of the 17 dogs is if there are other dogs below you? 18 A. I don't believe I meant in it that 19 context. 20 Q. Well, it makes sense. But let's look 21 at your top dog, right, Lucente, so \$410,000. So 22 he's the highest paid, like you said. You made the 23 representation accurately to your colleague in that 24 e-mail when you said Lucente is our highest paid 25 dog, right, he is the highest paid according to this</p>	<p>1 months that year. 2 A. That could be true, yeah. 3 Q. And if Lucente decides in November 4 that Ethicon or if Ethicon decides that they need 5 Lucente's help for the rest of this year and they 6 put him on the road for another 30 days, he could 7 make another \$100,000? 8 A. What's your question? 9 Q. Right? 10 A. I'm sorry, could you repeat the 11 question? 12 Q. Yeah. So if Ethicon decided that 13 they needed Lucente's help for the remainder of the 14 year and they booked him up, there's little over 15 30 days left in the month, about a month and a half 16 left. So if he's receiving \$3,000 a day, he could 17 potentially earn another \$100,000 in the next one 18 and a half months? 19 A. Not likely. But based on the numbers 20 of the days you're referring to, yeah, I presume so. 21 Q. What does -- what's innovation 22 counsel, do you know? 23 A. Good question. Innovation counsel? 24 Gosh, my recollection would be similar to an 25 advisory board where you gather surgeons together to</p>

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<p>1 share ideas and not a think tank per se but a  2 collection of surgeons of varying degree. They  3 could be KOL type surgeons, they could be just board  4 certified surgeons that we need their input on. I  5 think we might have called some of them innovation  6 counsels. They have different needs and I think  7 they had different objectives.  8 Q. What is the PFR ad board?  9 A. That would be an advisory board for  10 pelvic floor repair, so similar concept.  11 Q. Well it says PRF ad board, what is ad  12 board?  13 A. Is that on this sheet you're looking  14 at?  15 Q. I'm just asking you questions.  16 A. That sounds to me like an advisory  17 board.  18 Q. Do you know if any of these doctors  19 presented information to the FDA during the 2011 FDA  20 ADCOM meeting?  21 A. ADCOM meeting?  22 Q. Yeah.  23 A. No, I don't know.  24 MR. COMBS: Is your question whether  25 any of the doctors on Exhibit 753.</p>	<p>1 talked about a lot of things yesterday. Converting  2 doctors from using another product I do recall  3 talking about and it did happen, yeah.  4 Q. Yeah, that did happen, right?  5 A. Sure.  6 Q. And I gave you a scenario I said what  7 training procedure did you have in place to make  8 sure that those physicians who were used to using a  9 competitors product were able to overcome the  10 learning curve when they switched over to Ethicon's  11 product.  12 A. I recall that, yes.  13 Q. We had that conversation and it was  14 my recollection that you said, I never heard of  15 converting before, and we'll let the ladies and  16 gentlemen of the jury look at the transcript and see  17 what they think.  18 (Deposition Exhibit No. T754, e-mail string  19 ETH.MESH.01730839 marked Highly Confidential Subject  20 to Stipulation and Order of Confidentiality, was  21 marked for identification.)  22 MR. THORNBURGH: This is Exhibit No.  23 -- sorry, I think I put the wrong number on it. It  24 should be 755.  25 MR. COMBS: We don't have 754 yet.</p>
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<p>1 Q. Yeah, I'm asking if any of the  2 doctors on Exhibit 753 spoke to the FDA during the  3 ADCOM meeting?  4 A. I, honestly, don't recall. I was not  5 at that meeting.  6 Q. I think I went into the wrong field.  7 A. What field is that?  8 Q. I should have been a KOL for Ethicon  9 rather than a lawyer, if I cared more about money  10 than I did about patient safety.  11 MR. COMBS: Objection to counsel's  12 statements and testimony and whatever it is.  13 Q. Remember yesterday when I gave you a  14 scenario about converting competitive targets?  15 A. A little bit, yes.  16 Q. And you said I've never seen that  17 before?  18 A. I don't recall exactly what the  19 question or what my answer was.  20 Q. Well, yesterday you said or claimed  21 that you never seen or ever heard of trying to --  22 Ethicon trying to convert physicians who were using  23 competitors products to Ethicon's products. Do you  24 remember that?  25 A. Again, I don't remember, exactly. We</p>	<p>1 MR. THORNBURGH: Oh, is that 754?  2 MR. COMBS: Yes.  3 MR. THORNBURGH: Okay, great.  4 MR. COMBS: Do you have an extra  5 copy?  6 MR. THORNBURGH: I do.  7 MR. COMBS: If you don't, I'll share  8 it.  9 MR. THORNBURGH: I do.  10 MR. COMBS: Okay. Thank you.  11 Q. Alright. So ETH.MESH.01730839.  12 (There is a discussion off the record.)  13 Q. Okay. So this is an e-mail from  14 Lissette Caro-Rosado, your boss, right?  15 A. At that period of time, yes.  16 Q. And this is September 2nd, 2010,  17 right?  18 A. Uh-huh.  19 Q. And it says, "Gynecare TVT-Obturator  20 update," right?  21 A. That's what it says, yes.  22 Q. And so this is an e-mail that  23 Lissette forwarded to you and Andrew Meek.  24 Who is Andrew Meek?  25 A. He was in Prof Ed as well.</p>

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<p>1 Q. And who is Sharon Trumbull?</p> <p>2 A. Sharon Trumbull worked within Prof</p> <p>3 Relations and Professional Education as well.</p> <p>4 Q. Okay. This is a discussion of the</p> <p>5 full launch of Gynecare TVT-Abbrevio, right?</p> <p>6 A. (No response.)</p> <p>7 Q. Do you see that?</p> <p>8 A. I see that.</p> <p>9 Q. And she says, "I know everyone is</p> <p>10 excited about the Abbrevio launch, but it is</p> <p>11 important to stay focused on converting competitive</p> <p>12 targets throughout the end of the year and beyond</p> <p>13 with Gynecare TVT-Exact and Gynecare TVT-O," right,</p> <p>14 that's what she is saying here?</p> <p>15 A. Yes.</p> <p>16 Q. She's saying stay focused on</p> <p>17 converting competitive targets, doctors that are</p> <p>18 using other manufacturers products, convert those</p> <p>19 doctors and get them to adopt our product, right?</p> <p>20 A. Yes, that's what it says.</p> <p>21 Q. It says, "to help facilitate" -- and</p> <p>22 you're copied on this list?</p> <p>23 A. Actually, her e-mail was sent to the</p> <p>24 sales force.</p> <p>25 Q. No, I get it. But it was an e-mail</p>	<p>1 facilitate conversion of outside in</p> <p>2 transobturator users, attached is two selling</p> <p>3 guides, right?</p> <p>4 It says, "The two most common objections to</p> <p>5 the inside out Obturator approach," that's Ethicon's</p> <p>6 approach, right, in the TVT-O product?</p> <p>7 A. That's correct, for inside out.</p> <p>8 Q. It says, "fear of blind passage."</p> <p>9 Remember we had that discussion about that</p> <p>10 e-mail yesterday -- not the e-mail, but the</p> <p>11 Professional Education thing and I said, this is all</p> <p>12 blind, right? Do you remember that discussion?</p> <p>13 A. Yeah, I remember discussion around</p> <p>14 blind.</p> <p>15 Q. There was an exhibit on the screen</p> <p>16 all highlighted in yellow, do you remember that?</p> <p>17 A. Yes, I do.</p> <p>18 Q. I was talking about the starting</p> <p>19 point of the blind passage to the ending point of</p> <p>20 the blind passage, do you remember that discussion?</p> <p>21 A. I do.</p> <p>22 Q. So she says, that's a fear that</p> <p>23 doctors have, right? "One of the most common</p> <p>24 objections to Ethicon's approach is fear of blind</p> <p>25 passage, belief that there is greater risk of</p>
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<p>1 forwarded to you in Prof Ed from Lissette?</p> <p>2 A. Yes, as an FYI of what is being</p> <p>3 communicated to the sales force.</p> <p>4 Q. Yeah. So it was happening, right?</p> <p>5 A. Yeah.</p> <p>6 Q. That was one of the sales rep -- that</p> <p>7 was one of the marketing plans at Ethicon was to</p> <p>8 convert doctors from competitive products to</p> <p>9 Ethicon's products?</p> <p>10 A. Among others, yes.</p> <p>11 Q. But Ethicon didn't have a specific</p> <p>12 training program in place to -- per your testimony</p> <p>13 yesterday to -- intended for these doctors that were</p> <p>14 converting so they could overcome the learning</p> <p>15 curve?</p> <p>16 MR. COMBS: Object to form.</p> <p>17 A. No, no. We had trainings available</p> <p>18 to all surgeons of varying experience and skill</p> <p>19 sets. We offered --</p> <p>20 Q. Yeah, one size fits all approach per</p> <p>21 the e-mail we looked at yesterday.</p> <p>22 You didn't have a program just for</p> <p>23 conversion, right?</p> <p>24 A. Not that I recall.</p> <p>25 Q. Alright. It says, to help</p>	<p>1 hitting the Obturator nerve bundle versus outside in</p> <p>2 approach. The other belief is that there is more</p> <p>3 leg pain with inside out versus outside in," right?</p> <p>4 A. That's what it says, yes.</p> <p>5 Q. And that was a concern and Ethicon</p> <p>6 would handle concerns like this and you know this as</p> <p>7 a former sales representative, Ethicon would handle</p> <p>8 objections with objection handlers?</p> <p>9 A. Yeah, I'm familiar with the term</p> <p>10 objection handlers, yes, and I've seen them.</p> <p>11 Q. And so...</p> <p>12 And you've seen the TVT IFU's, right?</p> <p>13 A. I have.</p> <p>14 Q. And do you recall that the TVT IFU</p> <p>15 says transient leg pain lasting 24 to 48 hours?</p> <p>16 A. I do recall it warns about that, yes.</p> <p>17 Q. And I'm going to try to get out of</p> <p>18 here and finish up real quick, but...</p> <p>19 Is there a date on this document?</p> <p>20 Q. Do you remember that exhibit we</p> <p>21 looked at yesterday that discussed the</p> <p>22 transobturator approach and it said, you know, the</p> <p>23 risk of leg injury is low and avoided with the TVT</p> <p>24 inside out approach because the passers are 2.5 to</p> <p>25 3 centimeters away from the Obturator bundle?</p>

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<p>1 A. Not specifically, no.</p> <p>2 Q. You remember that being in</p> <p>3 Professional Ed throughout the years, that was what</p> <p>4 Ethicon told physicians, right?</p> <p>5 MR. COMBS: Object to the form.</p> <p>6 A. Could you repeat the question?</p> <p>7 Q. Yeah. That the inside out approach</p> <p>8 doesn't increase the risk of persistent leg pain,</p> <p>9 it's only transient leg pain 24 to 48 hours, and if</p> <p>10 you follow our procedures, then you don't have to</p> <p>11 worry about the risk because the passer, the helical</p> <p>12 passer, is 2.5 to 3 centimeters away from the</p> <p>13 Obturator bundle?</p> <p>14 MR. COMBS: Object to the form.</p> <p>15 A. I don't recall communication of that</p> <p>16 exact nature that you just described. We talked</p> <p>17 about transient leg pain and as a risk to passing a</p> <p>18 helical passer through that device, whether it's</p> <p>19 inside out or outside in.</p> <p>20 Q. So do you recall saying it was</p> <p>21 transient leg pain?</p> <p>22 A. Yeah, I'm pretty certain that's in</p> <p>23 our IFU and it was, certainly, discussed at your</p> <p>24 Prof Ed events.</p> <p>25 Q. Right. Until --</p>	<p>1 copy for you.</p> <p>2 Q. This is a presentation that has your</p> <p>3 name on it, right?</p> <p>4 A. Uh-huh.</p> <p>5 Q. And it was presented by you at the</p> <p>6 China sales recertification. What is the China</p> <p>7 sales recertification?</p> <p>8 A. It's just a review of materials for</p> <p>9 sales representatives, kind of a refresh or a</p> <p>10 retraining.</p> <p>11 Q. Okay. So this wasn't presented to</p> <p>12 doctors?</p> <p>13 A. No.</p> <p>14 Q. Okay. I recognize this is a very</p> <p>15 long training presentation that you gave to sales</p> <p>16 representatives.</p> <p>17 A. Yeah, not me alone but, yes.</p> <p>18 Q. Well, you and Christopher O'Hara?</p> <p>19 A. Yeah, he was helping me organize the</p> <p>20 event, yes.</p> <p>21 Q. So you're telling sales</p> <p>22 representatives that there was a cadaver lab done.</p> <p>23 Somebody in your presentation is presenting this</p> <p>24 slide. It's slide 146. It says, "A cadaver lab</p> <p>25 study comparing TVT, TVT-O and TOT showed that the</p>
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<p>1 A. Among other risks and watch-outs.</p> <p>2 Q. That is until the Abbrevio came on the</p> <p>3 market, when -- and after the public health</p> <p>4 notification -- when Ethicon decided to cannibalize</p> <p>5 its own TVT-O market with TVT-Abbrevio, right?</p> <p>6 A. Again, I didn't use that term</p> <p>7 cannibalization much myself. I know it was a term</p> <p>8 they used in marketing quite a bit, probably for</p> <p>9 inventory management and planning purposes I</p> <p>10 suppose. I don't know.</p> <p>11 Q. One of the selling points of Abbrevio</p> <p>12 now is -- currently, the selling point for Abbrevio</p> <p>13 is, Abbrevio doesn't have the same permanent</p> <p>14 persistent leg pain problem that our TVT-O device</p> <p>15 had, right?</p> <p>16 MR. COMBS: Object to form.</p> <p>17 A. I'm not familiar with that selling</p> <p>18 point, as you just described it.</p> <p>19 Q. Well, let's look at -- wait a minute.</p> <p>20 (Deposition Exhibit No. T755, slide deck</p> <p>21 China Sales Recertification July 20-22 Shanghai,</p> <p>22 China 160 pages no Bates, was marked for</p> <p>23 identification.)</p> <p>24 MR. THORNBURGH: I'm just going to</p> <p>25 mark this next Exhibit T755. This is -- I have a</p>	<p>1 TVT-O trocar passes closest to the Obturator</p> <p>2 neurovascular bundle within the Obturator canal.</p> <p>3 Therefore, Obturator injury is possible and could</p> <p>4 lead to prolonged or permanent leg pain," right?</p> <p>5 A. Yeah, I see that.</p> <p>6 Q. Your IFU says transient leg pain for</p> <p>7 24 to 48 hours?</p> <p>8 MR. COMBS: Object to the form.</p> <p>9 Q. Right?</p> <p>10 A. Yes, that's correct. I don't recall</p> <p>11 who presented or what this cadaver study was so...</p> <p>12 Q. In your mind, is transient leg pain</p> <p>13 different than prolonged or permanent leg pain?</p> <p>14 MR. COMBS: Object to the form.</p> <p>15 A. I'm not a doctor, so I couldn't tell</p> <p>16 you the difference between prolonged, transient,</p> <p>17 permanent. But transient and permanent I would</p> <p>18 agree are different in nature.</p> <p>19 Q. Right. I mean, the IFU, as you</p> <p>20 testified, regarding the TVT-O device says -- it</p> <p>21 defines transient for physicians in the IFU. It</p> <p>22 says 24 to 48 hours, right?</p> <p>23 A. That's correct.</p> <p>24 Q. 24 to 48 hours isn't prolonged in</p> <p>25 your mind, is it?</p>

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<p>1 A. No, maybe not.</p> <p>2 Q. And it's certainly not permanent?</p> <p>3 A. No, as I read that slide, it says,</p> <p>4 therefore Obturator injury when hitting those</p> <p>5 elements, you know, if hitting the neurovascular</p> <p>6 bundle or any of those things could lead to</p> <p>7 prolonged, that's what it says.</p> <p>8 Q. Because the TVT-O trocar passes -- of</p> <p>9 those three devices, the TVT-O trocar passed closest</p> <p>10 to the Obturator neurovascular bundle, that's what</p> <p>11 it says, right?</p> <p>12 A. "TVT trocar passes closest to the</p> <p>13 Obturator neurovascular bundle comparing those</p> <p>14 devices in that cadaver study," and that's a</p> <p>15 potential risk.</p> <p>16 Q. No, the potential risk is --</p> <p>17 according to this document -- is prolonged or</p> <p>18 permanent leg pain, not transient 24 to 48-hour leg</p> <p>19 pain, right?</p> <p>20 A. No, that's worded differently than</p> <p>21 transient, correct.</p> <p>22 Q. And this is a slide that was</p> <p>23 presented to sales representatives but not to</p> <p>24 physicians?</p> <p>25 A. Correct.</p>	<p>1 complications.</p> <p>2 THE WITNESS: There you go.</p> <p>3 MR. COMBS: We're there.</p> <p>4 Q. Okay. Are you there?</p> <p>5 A. I am.</p> <p>6 Q. And so if you turn to the next page.</p> <p>7 Okay. So it doesn't say persistent leg</p> <p>8 pain, right?</p> <p>9 A. Does it say persistent leg pain; is</p> <p>10 that the question?</p> <p>11 Q. Yes. It doesn't say it, does it?</p> <p>12 A. I don't see it on there, no.</p> <p>13 Q. So, to try to put these risks into</p> <p>14 perspective, Ethicon would use the complication</p> <p>15 data, right? It's certainly -- it's on this board,</p> <p>16 right?</p> <p>17 A. It does say complication, yes.</p> <p>18 Q. And the board shows over 100,000</p> <p>19 TVT-O procedures worldwide, one death, cause</p> <p>20 unknown, right?</p> <p>21 A. Yes.</p> <p>22 Q. It says, nerve injury 2, bladder</p> <p>23 injury 1, urethral erosion 2, bowel injury 0,</p> <p>24 vascular injury 2, right, 2 of a 100,000 procedures</p> <p>25 or products sold worldwide?</p>
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<p>1 Q. Instead what you would tell --</p> <p>2 Ethicon would tell doctors would be something like</p> <p>3 that presented by your top dog, Vincent Lucente.</p> <p>4 MR. COMBS: If there's a question</p> <p>5 pending, objection.</p> <p>6 MR. THORNBURGH: Alright. We'll go</p> <p>7 ahead and show -- go ahead and mark this. This will</p> <p>8 be my last exhibit and then I'll pass the witness.</p> <p>9 (Deposition Exhibit No. T756, slide deck TVT</p> <p>10 Obturator Anatomic Considerations Clinical Update</p> <p>11 Special Considerations Raders and Lucente</p> <p>12 ETH.MESH.01696387, was marked for identification.)</p> <p>13 MR. THORNBURGH: 756. I've got a</p> <p>14 copy for you. ETH.MESH.01696387.</p> <p>15 Q. Does it say on this first page that</p> <p>16 Dr. Lucente is a paid consultant for Ethicon?</p> <p>17 A. Not on this slide, no.</p> <p>18 Q. So if we turn to 52, I believe.</p> <p>19 MR. COMBS: Do you know where it is?</p> <p>20 Q. I'm sorry, yeah, it's not numbered,</p> <p>21 so...</p> <p>22 MR. COMBS: Where do we turn to? Is</p> <p>23 this what -- are we supposed to turn to what's on</p> <p>24 the screen?</p> <p>25 MR. THORNBURGH: Yes, TVT-O</p>	<p>1 A. Yes, that's what I see.</p> <p>2 (There is a discussion off the record.)</p> <p>3 Q. It was common for Ethicon to use</p> <p>4 complication data in their Professional Education</p> <p>5 materials, right?</p> <p>6 A. Yes, absolutely, all the time we</p> <p>7 talked about complications and the data was</p> <p>8 presented.</p> <p>9 MR. THORNBURGH: Okay. Well, I can't</p> <p>10 find my last exhibit. So do you mind if we go off</p> <p>11 the record real quick. We may switch.</p> <p>12 MS. WILSON: Let's just take a brief</p> <p>13 break, three to five minutes.</p> <p>14 THE VIDEOGRAPHER: The time is 11:11.</p> <p>15 This is the end of Disk No. 2. We are going off the</p> <p>16 record.</p> <p>17 (Recess taken 11:11 to 11:24 a.m.)</p> <p>18 THE VIDEOGRAPHER: The time now is</p> <p>19 11:24. This is the beginning of Disk No. 3. We are</p> <p>20 back on the record.</p> <p>21 MR. COMBS: And, just briefly, I just</p> <p>22 want to preserve an objection under Pretrial Order</p> <p>23 38. It's my understanding Pretrial 38 said that MDL</p> <p>24 counsel is supposed to select one counsel to conduct</p> <p>25 the questioning of the witness.</p>

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<p>1 Obviously, we're going to have multiple</p> <p>2 counsel here. We're not going to direct the witness</p> <p>3 not to answer or stop the deposition or anything</p> <p>4 like that. I just wanted to preserve that.</p> <p>5 MS. WILSON: Okay, thanks.</p> <p>6 EXAMINATION BY MS. WILSON:</p> <p>7 Q. Mr. Pattysen, my name is Kim Wilson</p> <p>8 and I am here on behalf of Plaintiffs in the</p> <p>9 coordinated MDL litigation that you're familiar with</p> <p>10 and you've been offering testimony for on behalf of</p> <p>11 Ethicon and J&amp;J, not as a corporate witness, but as a</p> <p>12 fact witness for the past day.</p> <p>13 I just want to start the depo by just</p> <p>14 clearing up some testimony from the past day and a</p> <p>15 half, briefly.</p> <p>16 A. Sure.</p> <p>17 Q. Did Ethicon through its Professional</p> <p>18 Education department train physicians on surgical</p> <p>19 implantation of TVT devices?</p> <p>20 A. Did Ethicon?</p> <p>21 Q. Did Ethicon through its Professional</p> <p>22 Education --</p> <p>23 A. Yes.</p> <p>24 Q. -- department train physicians on the</p> <p>25 surgical implantation of TVT devices?</p>	<p>1 physician customer.</p> <p>2 MR. COMBS: Object to the form.</p> <p>3 A. Okay. Training requirements to place</p> <p>4 the device or training requirements to attend an</p> <p>5 event?</p> <p>6 Q. Let's start with training</p> <p>7 requirements to attend an event.</p> <p>8 A. I'm not familiar with any training</p> <p>9 requirements, no. We had criteria that we talked</p> <p>10 about, as far as attending events. But I'm not</p> <p>11 aware of any training requirements for preceptees.</p> <p>12 Q. I'm just talking about physician</p> <p>13 customers, not your preceptors.</p> <p>14 A. Oh, no, I said preceptees. I'm</p> <p>15 sorry, those are the physician customers.</p> <p>16 Q. Gotcha, okay.</p> <p>17 A. Yeah, so I'm just clarifying. Yeah,</p> <p>18 and I'm not familiar with any training requirements.</p> <p>19 Q. Okay. You mentioned the word</p> <p>20 "criteria." What sort of "criteria" did Ethicon</p> <p>21 have for the preceptees?</p> <p>22 A. The criteria that I'm most familiar</p> <p>23 were with -- obviously, we're talking about board</p> <p>24 certified surgeons. So these were surgeons who were</p> <p>25 actively performing surgery in hospitals or</p>
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<p>1 A. Yes, they did.</p> <p>2 Q. Okay. And did Ethicon through its</p> <p>3 Professional Education department train preceptors?</p> <p>4 A. Yes, it did.</p> <p>5 Q. Okay. And in what ways did the</p> <p>6 Professional Education department train the</p> <p>7 preceptors?</p> <p>8 A. In programs that we commonly refer to</p> <p>9 as train the trainer events.</p> <p>10 Q. Okay. Now, while you were in the</p> <p>11 Professional Education department at Ethicon -- and,</p> <p>12 as I understand it, that began, approximately, in</p> <p>13 February 2006, correct, you changed from a sales rep</p> <p>14 to Professional Education; is that correct?</p> <p>15 A. Yeah, I don't remember the month but</p> <p>16 2006, that's correct.</p> <p>17 Q. Okay. Per your resume, it's February</p> <p>18 of 2006.</p> <p>19 A. Okay.</p> <p>20 Q. Okay. While you were there, were</p> <p>21 there any training requirements for your physician</p> <p>22 customers prior to Ethicon and J&amp;J permitting the</p> <p>23 surgical use of TVT products in patients?</p> <p>24 A. Were there any requirements --</p> <p>25 Q. Training requirements for the</p>	<p>1 ambulatory surgical centers and they were performing</p> <p>2 these types of procedures on women. So they had a</p> <p>3 keen interest and are dealing with patients with</p> <p>4 these symptoms. So those were the surgeons that --</p> <p>5 so that's the kind of criteria we were looking</p> <p>6 for in surgeons to attend our events.</p> <p>7 Q. And is this criteria written down</p> <p>8 anywhere?</p> <p>9 A. Yes, I've seen some criteria written</p> <p>10 down on an e-mail or something.</p> <p>11 Q. Any former protocols or procedures or</p> <p>12 policies on the criteria required for the</p> <p>13 preceptees?</p> <p>14 A. I'm sorry, the question then is, were</p> <p>15 there or --</p> <p>16 Q. Yeah. Were there any formal</p> <p>17 protocols, written policies on the criteria that</p> <p>18 Ethicon required for its preceptees?</p> <p>19 A. I'm not familiar with any formal</p> <p>20 protocols other than the ones that I just described</p> <p>21 as far as being board certified surgeons, yes.</p> <p>22 Q. Okay. Were there any special</p> <p>23 training requirements for preceptees for surgical</p> <p>24 use of the TVT-S in patients?</p> <p>25 A. Special training requirements?</p>

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<p>1 Q. That's right. Did it change in any 2 way once TVT-S was launched?</p> <p>3 A. As far as training requirements, not 4 that I'm aware of, as far as who we sent to our 5 training events, no.</p> <p>6 Q. Okay. Could a board certified 7 urologist or OB/GYN beginning in 2006 -- I believe 8 TVT-S got launched, approximately, March of 2006. 9 It was spring of 2006.</p> <p>10 First of all, do you know when TVT was 11 launched, when it went into the stream of commerce?</p> <p>12 A. I'm sorry.</p> <p>13 MR. COMBS: Object to the form.</p> <p>14 A. I think it was around 2006, yeah, I'm 15 just remembering.</p> <p>16 MR. COMBS: And I may have missed it. 17 I assume -- I think you said when TVT was launched 18 and I --</p> <p>19 MS. WILSON: TVT-S.</p> <p>20 MR. COMBS: Okay, I just missed the 21 S, sorry.</p> <p>22 Q. Alright. Okay. So, when TVT-S was 23 launched, did you have any sort of special training 24 requirements for the physician customer prior to the 25 company permitting them to use surgically used</p>	<p>1 did you decide to join the Professional Education 2 department in 2006?</p> <p>3 A. How or why?</p> <p>4 Q. Yes. How did that happen?</p> <p>5 A. It just was an opportunity that was 6 available within the company and I was interested in 7 doing something different at that time.</p> <p>8 Q. Okay. And did you think your skill 9 set that you had in sales transferred over well to 10 the Professional Education department?</p> <p>11 A. Yeah, I would say so.</p> <p>12 Q. Okay. And why is that?</p> <p>13 A. Just because I feel I had the skill 14 sets needed for the job to coordinate training 15 events and I enjoy working with surgeons and I had a 16 good rapport with them as a sales representative. 17 So I didn't see why I wouldn't be a good candidate 18 to do the Professional Education job.</p> <p>19 Q. And, obviously, the company thought 20 so as well.</p> <p>21 A. Thanks.</p> <p>22 Q. What is the relationship between 23 Professional Education and sales and the sales reps?</p> <p>24 A. I would say it's another resource for 25 them to consider, along with their products, the</p>
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<p>1 product?</p> <p>2 A. Well, I think all of our training 3 events are special. But, as far as requirements, I 4 don't recall any special training requirements.</p> <p>5 Q. Okay. So beginning in 2006 when the 6 TVT-S was launched, could pretty much any surgeon 7 whether or not they were board certified, maybe a 8 general surgeon, could they have gotten access to a 9 TVT-S product and placed it into a woman?</p> <p>10 A. Well, I believe a general surgeon 11 would be board certified as well. And, to answer 12 your question, any -- well, in Professional 13 Education or with Ethicon, we were not in the 14 practice of watching the storeroom, if you will, or 15 the inventory at a hospital.</p> <p>16 So, if I understand your question, anybody 17 could probably grab it off of a shelf, if they so 18 choose, and use a device. That is correct.</p> <p>19 Q. Now, as I understand your 20 professional career at Ethicon and Johnson &amp; 21 Johnson, prior to going to Professional Education in 22 2006, you were a sales representative; is that 23 correct?</p> <p>24 A. That's correct.</p> <p>25 Q. Okay. And why did you decide or how</p>	<p>1 products that they're selling. It's an option for 2 surgeons to utilize and a good option.</p> <p>3 Q. Okay. I don't know if you understood 4 my question.</p> <p>5 What's the relationship between Professional 6 Education and sales and sales reps? I mean, do you 7 work closely with sales?</p> <p>8 A. Yeah, well, within my -- when I was 9 in Prof Ed in 2006, my relationship was to help 10 getting their doctors registered. They would sign 11 them up online and I would approve them and set up 12 events for them. Yeah, so there would be 13 coordination between myself and them when 14 registering doctors to our events, yes.</p> <p>15 Q. Do you feel like Professional 16 Education is there, in fact, to help with sales?</p> <p>17 A. I think it's to help with the 18 training of our products. I don't think it's to 19 help with sales.</p> <p>20 Q. Okay. Do you think Professional 21 Education is there to help market the product?</p> <p>22 A. No. I think, again, it's -- there is 23 information that's shared at those events that might 24 deal with the marketplace. I don't know that that's 25 considered marketing. But I know marketing covers a</p>



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<p>1 lot of things. So I don't think Prof Ed is there to 2 market the product, no, that's a separate function. 3 Q. Okay. Now, while you were a sales 4 rep, did you have any responsibility for training 5 docs on TVT products? 6 A. Did I have any responsibility for 7 training docs -- 8 Q. While you were a sales rep. 9 A. I'm sorry, when I was a sales rep; 10 no. 11 Q. So, you did not, as part of your job 12 duties and responsibility, as a sales rep, train 13 physicians on the surgical use of the TVT products? 14 A. No. 15 Q. Okay. So I'm going to try today to 16 keep my questions very, very focused on TVT-S, which 17 has not been discussed a lot in the last day and a 18 half. 19 But before I do that, what also hasn't been 20 gone over is your HR file. So I'm just going to 21 take a few moments to go through those years, 22 hopefully, quickly. 23 A. Okay. 24 MS. WILSON: Madam Court Reporter, 25 has his curriculum vitae been introduced into</p>	<p>1 Q. Okay. So this is one of those 2 versions? 3 A. This looks like a version, yes. 4 Q. Okay. And would that have been a 5 version that you used in order to go to -- you've 6 had two positions within Professional Education, as 7 I understand it. 8 Is that a version that you used to go to 9 that Professional Education job No. 2? 10 A. It's possible. I don't -- Prof Ed 11 job No. 2, I'm sorry, can you clarify that? 12 Q. Let's see. What's the top date on 13 that resume? I can't see it. 14 A. January 2008. Sorry. 15 Q. Can I have it back just for a second. 16 A. (The witness complies.) 17 Q. Okay. So the last job on this is 18 February 2006 to January 2008 and during that time 19 you were a Professional Education manager? 20 A. That's correct. 21 Q. Okay. We're going to make a copy so 22 everyone can have that. 23 A. Okay. 24 Q. And what were your job duties and 25 responsibilities as a Professional Education manager</p>
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<p>1 evidence? 2 Can I see that please. 3 (There is a discussion off the record.) 4 Q. Okay. So I'm going to actually hand 5 you a different curriculum vitae, which was produced 6 in your custodial file and we're going to mark that 7 as Exhibit 757 and it's Bates No. 08692184. 8 (Deposition Exhibit No. T757, Bartholomew 9 Pattyson resume ETH.MESH.08692184 &amp; 08692185 marked 10 Confidential Subject to Stipulation and Order of 11 Confidentiality, was marked for identification.) 12 MS. WILSON: And, unfortunately, I 13 think I only have one, one copy of this. 14 (There is a discussion off the record.) 15 Q. I think we might be able to make a 16 copy. 17 A. Okay. 18 Q. So do you recognize that document, 19 Exhibit 757? 20 A. Yeah, it's a copy of my resume. 21 Q. Okay. And, as an employee at Ethicon 22 and Johnson &amp; Johnson, did you keep your resume 23 updated? 24 A. Yes. I have multiple versions of my 25 resume on my machine. I have various versions.</p>	<p>1 from 2006 to 2008? 2 A. Just like we described before, 3 organizing events for the training of surgeon to 4 surgeon events -- 5 Q. Okay. 6 A. -- you know, out in the field. 7 Q. And then in 2008 you became 8 Professional Education director worldwide; is that 9 correct? 10 A. That is correct. 11 Q. And how did your job duties and 12 responsibilities change at that point? 13 A. Well, I no longer had -- it was kind 14 of unique because this job hadn't existed before, 15 the worldwide position. So it was a brand new 16 position. 17 Q. Okay. 18 A. And whereas in the previous role it 19 was planning and coordinating events. This new role 20 was to help share best practices on a global basis 21 with other J&amp;J folks, internal folks, on how to safe 22 and effectively train doctors and how it's done in 23 the US and learn from them how they do it overseas. 24 Q. Okay. I'm going to hand this back to 25 you. I think we've almost got those copies here.</p>

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<p>1 And there are portions of that resume that I just 2 want to go over with you. 3 A. Sure. 4 Q. Okay. So let's look at February 2006 5 through January of 2008. 6 A. Uh-huh. 7 Q. And the title of the position is 8 "Ethicon Women's Health and Urology, a Johnson &amp; 9 Johnson Company, Professional Education manager." 10 Alright. Go down to -- well, let's just 11 start with the top. The first responsibility 12 includes "creating and managing professional 13 training events for targeted physicians within four 14 sales divisions," and then it has in parenthesis "31 15 reps." 16 A. That's correct. 17 Q. Alright. So what does the "31 reps" 18 mean? 19 A. At or about the time that this resume 20 was updated, there was, I presume, 31 reps within 21 those four divisions or across those four divisions, 22 I should say. 23 Q. Okay. And why was that important to 24 you to put on your resume? 25 A. Simply that that's the number of reps</p>	<p>1 A. Uh-huh. 2 Q. And what training requirements were 3 you talking about there? 4 A. I would imagine that has to do with 5 what are the elements and things that are needed for 6 the training events. So medical institutions would, 7 obviously, include if we're teaching at their 8 events, those requirements needed for us to be 9 there, be allowed in the hospital, things like this. 10 Whatever is needed to host or put on an event, we 11 need to communicate with -- I would need to 12 communicate, for example, with these individuals. 13 Q. Okay. And then the next bullet 14 point, "constant planning exists with internal 15 customers including marketing, medical affairs, 16 sales management and sales representatives regarding 17 teaching objectives." 18 A. Uh-huh. 19 Q. So did you constantly plan with sales 20 management and the sales representatives regarding 21 teaching objectives? 22 A. Constant planning exists? Yeah, I 23 think we were constantly reminding them to utilize 24 -- understand what training is and what happens at 25 Prof Ed because we hire new reps all the time and</p>
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<p>1 that were in the sales divisions. 2 Q. Okay. And did you have contact with 3 those 31 reps? 4 A. Sure, as part of the job, I would 5 communicate with them infrequently. 6 Q. Infrequently? 7 A. Well, periodically, maybe that's the 8 right word I should use. 9 Q. Regularly, wouldn't you say? 10 A. Well, they didn't report to me, no. 11 There were some reps that I spoke to on a more 12 regular base than others and there are some that I 13 didn't speak to as regularly. So it depends on who 14 the rep is. 15 Q. And that's what I mean. I don't mean 16 one specific rep that reported to you. 17 But, in your position as Professional 18 Education manager, you regularly communicated with 19 the sales reps? 20 A. You could say that, sure. 21 Q. And the next bullet point is, 22 "Personally liaise with all external customers, 23 including medical faculty, medical institutions and 24 physician customers regarding content, program 25 execution and training requirements." Okay?</p>	<p>1 new managers and so constantly as we were hiring 2 them, make sure they're aware of what happens and 3 what are the objectives of these teaching events and 4 how it can be of value to their surgeons. 5 Q. Okay. And I just want to be clear. 6 You drafted this Exhibit 757, right? 7 A. Yes. 8 Q. Okay. The next one, personally 9 managed the training of 1100 physicians in 2006, 980 10 in 2007. 11 Did you personally manage the training of 12 1100 physicians in 2006? 13 A. That's -- if you read it deliberately 14 like that, it sounds like I managed their training. 15 I oversaw it from a Professional Education 16 perspective, yes. 17 Q. I'm just reading it like you put it 18 down here. So what did you mean? 19 A. Just what I just said. There is 1150 20 physicians trained in 2006 in my geography as well 21 as 980 in 2007. So I coordinated all of that. 22 Q. Okay. So, based upon Exhibit 757, it 23 seems as though there is a very close relationship 24 between Professional Education and marketing and 25 sales in promoting and training and putting on these</p>

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<p>1 events; is that true?</p> <p>2 MR. COMBS: Object to the form.</p> <p>3 A. I would say there is a relationship,</p> <p>4 absolutely. We worked with marketing. We worked</p> <p>5 with sales. There was communication and making each</p> <p>6 other aware of certain things perhaps might have</p> <p>7 been a project we worked on, yes. There was</p> <p>8 communication.</p> <p>9 Q. In becoming a Professional Education</p> <p>10 manager, was that a promotion over being a sales</p> <p>11 rep?</p> <p>12 A. I think so. Unfortunately, might not</p> <p>13 have been monetary, but I think on the level scale</p> <p>14 it was -- I think it's considered a promotion, as</p> <p>15 far as our HR levels are concerned.</p> <p>16 Q. In the proctorship and preceptorship,</p> <p>17 is that something that Professional Education lines</p> <p>18 up, manages and handles, or is that something that</p> <p>19 sales reps line up, manage and handle?</p> <p>20 A. That is a Prof Ed responsibility.</p> <p>21 Q. Okay. So the last full year, as I</p> <p>22 understand your resumes, both of them, that you were</p> <p>23 a sales rep, complete year, would have been 2005; is</p> <p>24 that right?</p> <p>25 A. Yes. That would be right, yes.</p>	<p>1 Q. Okay. So under "action plan" on your</p> <p>2 performance and development plan summary it says</p> <p>3 that you targeted -- it either said you targeted or</p> <p>4 wanted to target five to seven TVT proctorships.</p> <p>5 So, in your capacity as a sales</p> <p>6 representative for Ethicon and Johnson &amp; Johnson,</p> <p>7 can you please tell the ladies and gentlemen of the</p> <p>8 jury what that means and what you were doing and</p> <p>9 what the company wanted you to do?</p> <p>10 A. Well, I'm trying to recall what this</p> <p>11 document or what Amy would have put here. Targeting</p> <p>12 5 to 7 proctorships, I think if I understood, if</p> <p>13 that's what the question is, you know, using</p> <p>14 proctorships or preceptorships for your surgeons is</p> <p>15 an opportunity to help them with training. So my</p> <p>16 guess would be that would be to try and get doctors</p> <p>17 to utilize our training, if that would help them or</p> <p>18 if they asked for it.</p> <p>19 Q. Okay. And it's important for you to</p> <p>20 target these doctors to use the proctorships because</p> <p>21 it in likelihood or it could help result in them</p> <p>22 using your product?</p> <p>23 A. That could be a result, yes. It's</p> <p>24 really about safe and efficacious use, as we've</p> <p>25 discussed. We think training is a very valuable</p>
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<p>1 Q. Okay. I'm going to hand you what</p> <p>2 we're going to mark as Exhibit 758.</p> <p>3 (Deposition Exhibit No. T758, 2005</p> <p>4 Performance and Development Plan Summary for</p> <p>5 Bartholomew Pattyson ETH.MESH.08692297 to 08692304</p> <p>6 marked Confidential Subject to Stipulation and Order</p> <p>7 of Confidentiality, was marked for identification.)</p> <p>8 Q. And the Bates No. is 08692297 and it</p> <p>9 is 2005 Performance and Development Plan Summary for</p> <p>10 Bartholomew Pattyson.</p> <p>11 And is this something that employees, all</p> <p>12 employees at Ethicon, go through every year?</p> <p>13 A. Yeah, there's performance and</p> <p>14 development discussions routinely between employees</p> <p>15 and their managers, yes.</p> <p>16 Q. Okay. And who is Amy Vie?</p> <p>17 A. Amy Vie is -- was my manager within</p> <p>18 sales during a portion of my selling time.</p> <p>19 Q. So let's go down to action plan,</p> <p>20 about the bottom of the first page. And it says,</p> <p>21 "Targeting 5 to 7 TVT proctorships."</p> <p>22 A. Okay. There are couple of action</p> <p>23 plans there.</p> <p>24 Q. Do you see that?</p> <p>25 A. Yeah, I do now.</p>	<p>1 resource to our surgeon customers. So, for those</p> <p>2 that are interested, it's a -- it's there and all</p> <p>3 the tools we have are available for them.</p> <p>4 Q. And I, certainly, invite you to read</p> <p>5 all eight pages of your performance and development</p> <p>6 plan and there is nothing about safe and efficacious</p> <p>7 use of your product in here.</p> <p>8 But going on, manager comments, "Bart has</p> <p>9 done an excellent job in targeting and training</p> <p>10 doctors according to their needs." Okay. So --</p> <p>11 A. Can you tell me where you are?</p> <p>12 Q. I'm sorry, under manager comments.</p> <p>13 A. Yeah. I see that in multiple places.</p> <p>14 Q. It's bottom of the first page. We're</p> <p>15 still on that first page. I will let you know if we</p> <p>16 move off this page.</p> <p>17 A. Okay. Gotcha, I found you.</p> <p>18 Q. Okay. So your manager comment is</p> <p>19 that you did a good job in 2005 on targeting and</p> <p>20 training doctors according to their needs.</p> <p>21 And you just testified -- you testified</p> <p>22 yesterday and you testified today that sales reps do</p> <p>23 not engage in training. So what did your manager</p> <p>24 Amy Vie mean by that?</p> <p>25 MR. COMBS: Object to the form.</p>

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<p>1 A. I can't -- you would have to ask Amy.</p> <p>2 Q. Okay. Well, did you ask her during</p> <p>3 this performance evaluation?</p> <p>4 A. I don't recall asking her that, no.</p> <p>5 Q. Okay. Well, there is a section in</p> <p>6 here where you can -- you have comments, employee</p> <p>7 comments. And did you say to her that, whoa, you</p> <p>8 know, I don't train doctors?</p> <p>9 A. No, perhaps the discussion was more</p> <p>10 along the lines of sending doctors to training</p> <p>11 because that's what we did. So I never trained</p> <p>12 surgeons. I know my manager, who was a sales rep</p> <p>13 before me, never trained -- she never spoke of</p> <p>14 training doctors nor did anybody I ever know.</p> <p>15 So I think the comment that I read here is</p> <p>16 talking about sending doctors to training.</p> <p>17 Q. Okay. But that's not -- that's not</p> <p>18 here, that's what you are assuming was meant seven</p> <p>19 years ago, eight years ago, when this document was</p> <p>20 completed?</p> <p>21 A. Yeah.</p> <p>22 Q. Okay. I'm going to hand you what</p> <p>23 we're going to mark as Exhibit 759.</p> <p>24 (Deposition Exhibit No. T759, 2006</p> <p>25 Performance and Development Plan Summary for</p>	<p>1 A. Yes.</p> <p>2 Q. And it says, "Targeting and planning.</p> <p>3 Develop and execute aggressive educational programs</p> <p>4 to effectively raise the learning and sales of</p> <p>5 region beyond 2006."</p> <p>6 So, in fact, in terms of targeting and</p> <p>7 planning, your boss, Paul Parisi, is telling you he</p> <p>8 wants you to develop and execute an aggressive</p> <p>9 educational program for the sole purpose of raising</p> <p>10 the learning and sales of the region beyond what it</p> <p>11 was in 2006. Do you see that?</p> <p>12 A. Yes.</p> <p>13 MR. COMBS: Objection to form.</p> <p>14 Q. Okay. So if, in fact, Professional</p> <p>15 Education wasn't there to bolster marketing and</p> <p>16 sales, why would Mr. Parisi put that in your</p> <p>17 performance evaluation as that's one of your job</p> <p>18 duties and responsibilities?</p> <p>19 A. As I've commented before, I think,</p> <p>20 sales are a very understandable and potential result</p> <p>21 to effective training and that's why we did our</p> <p>22 training, to help doctors perform their procedure</p> <p>23 safely. If they chose to use it more, I would</p> <p>24 determine that's going to -- could end in sales.</p> <p>25 Q. You talk an awful lot about safety.</p>
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<p>1 Bartholomew Pattyson ETH.MESGH.08692305 to 08692311</p> <p>2 marked Confidential Subject to Stipulation and Order</p> <p>3 of Confidentiality, was marked for identification.)</p> <p>4 MS. WILSON: And this is Bates No.</p> <p>5 08692305.</p> <p>6 Q. And this is your 2006 Performance and</p> <p>7 Development Plan Summary and this was completed by</p> <p>8 Paul Parisi.</p> <p>9 Now, who is Mr. Parisi?</p> <p>10 A. Paul Parisi was my Prof Ed director</p> <p>11 during portions of my time in Prof Ed.</p> <p>12 Q. Okay. And you just testified that</p> <p>13 raising sales for the product or marketing the</p> <p>14 product was not your role in Professional Education</p> <p>15 nor is it the role of Professional Education within</p> <p>16 the Ethicon Johnson &amp; Johnson Company; is that</p> <p>17 right?</p> <p>18 A. That is correct.</p> <p>19 Q. That is your testimony?</p> <p>20 A. That is.</p> <p>21 Q. Okay. And let's go down to under</p> <p>22 "individual business objectives," Paragraph 2, do</p> <p>23 you see that?</p> <p>24 A. Paragraph 2 within -- No. 2?</p> <p>25 Q. Yes.</p>	<p>1 You have over the past day and a half.</p> <p>2 Unfortunately, it's in none of these</p> <p>3 documents, like performance and develop plan</p> <p>4 summary. For example, if you go to employee</p> <p>5 comments, the next page.</p> <p>6 A. Uh-huh.</p> <p>7 Q. I mean. You don't mention anything,</p> <p>8 your comments about safety; is that correct?</p> <p>9 MR. COMBS: Objection to the form.</p> <p>10 A. My comments here?</p> <p>11 Q. Yeah.</p> <p>12 A. Give me a moment to read them.</p> <p>13 No, I don't see anything about safety there,</p> <p>14 that's correct.</p> <p>15 Q. And, I mean, take a look on Page 1,</p> <p>16 Mr. Parisi, does he mention anything about safety,</p> <p>17 that that's the goal and objective of Professional</p> <p>18 Education to train doctors on the safe use of the</p> <p>19 product?</p> <p>20 A. Without reading through</p> <p>21 this completely yet --</p> <p>22 Q. Take your time. It's not long.</p> <p>23 A. I don't see those specific words on</p> <p>24 this document, no.</p> <p>25 Q. Okay?</p>

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<p>1 A. I can tell you, though, that we</p> <p>2 always talked about patient safety.</p> <p>3 Q. Okay. I realize you're telling me</p> <p>4 that. I'm just trying to find it somewhere.</p> <p>5 Let's go down under manager comments.</p> <p>6 "Bart hit our original but achieved 84 percent of</p> <p>7 the revised training goals, he helped manage process</p> <p>8 improvement with IM" -- what's IM?</p> <p>9 A. Information management.</p> <p>10 Q. (Continuing.) "And systems issues to</p> <p>11 get best cost tracking metrics and deliver these to</p> <p>12 his sales and marketing partners. Bart's region</p> <p>13 exceeded their BP" -- what's BP?</p> <p>14 A. Business plan.</p> <p>15 Q. (Continuing.) "By 1 percent or</p> <p>16 \$215,000"; is that right?</p> <p>17 A. Uh-huh.</p> <p>18 Q. So what does that mean?</p> <p>19 MR. COMBS: You have to answer out</p> <p>20 loud, yes or no.</p> <p>21 THE WITNESS: Sorry.</p> <p>22 A. Yes.</p> <p>23 Q. What does that mean that you exceeded</p> <p>24 your BP by \$215,000?</p> <p>25 A. My understanding is that says my</p>	<p>1 marked Confidential Subject to Stipulation and Order</p> <p>2 of Confidentiality, was marked for identification.)</p> <p>3 MS. WILSON: This is Bates No.</p> <p>4 08692312.</p> <p>5 Q. This is your 2007 performance and</p> <p>6 development plan and you're still the Professional</p> <p>7 Education manager, right, in 2007?</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 A. It looks like the date was 2008 when</p> <p>11 this was created.</p> <p>12 Q. Yeah, it was created in 2008. It's</p> <p>13 for 2007.</p> <p>14 A. Yes, you're correct.</p> <p>15 Q. Right?</p> <p>16 A. You're correct.</p> <p>17 Q. So it's for the complete year</p> <p>18 January 2007 through December 2007.</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. And it was completed by Andrew</p> <p>21 Meek. Who is Andrew Meek?</p> <p>22 A. Andrew Meek was at this point in time</p> <p>23 our team lead. So we had -- Paul Parisi was our</p> <p>24 director and Andy Meek was the team lead for our</p> <p>25 group so...</p>
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<p>1 region, if I understand that correctly, that might</p> <p>2 be their sales that -- yeah, I presume that's sales.</p> <p>3 He's also talking about cost tracking and metrics.</p> <p>4 So there's a chance that could be referring to our</p> <p>5 budget because we had budget plans that we worked</p> <p>6 on, too, so I can't tell from this e-mail.</p> <p>7 Q. Okay.</p> <p>8 A. Or from this document, rather.</p> <p>9 Q. Okay. Let's go on down to three,</p> <p>10 alright.</p> <p>11 A. Uh-huh.</p> <p>12 Q. It says, "TVT-S 22 doctors; \$25,000."</p> <p>13 What does that mean?</p> <p>14 A. It looks like those were platform</p> <p>15 specific budget objectives. So, as I just alluded</p> <p>16 to in the comment before, all of our events cost a</p> <p>17 lot of money and we have a certain amount of money</p> <p>18 that we're not supposed -- we're supposed to try to</p> <p>19 stay under. So that's what I think that's referring</p> <p>20 to.</p> <p>21 Q. Okay. I'm going to hand you what is</p> <p>22 Exhibit 760.</p> <p>23 (Deposition Exhibit No. 760, 2007</p> <p>24 Performance and Development Plan Summary for</p> <p>25 Bartholomew Pattyson ETH.MESH.08692312 to 08692317</p>	<p>1 Q. Okay. Overall summary. Can you read</p> <p>2 the last sentence of the overall summary for the</p> <p>3 ladies and gentlemen of the jury?</p> <p>4 A. Sure. "Bart also has continued to</p> <p>5 challenge himself to achieve new levels of sales and</p> <p>6 marketing partnership."</p> <p>7 Q. Okay. So that seems to be a very</p> <p>8 important part of what your job was in Professional</p> <p>9 Education in 2007, so much so that the person</p> <p>10 completing this review gave you a shout out to say</p> <p>11 that you did a good job with it, right?</p> <p>12 A. Yeah, that was Andy's comment there,</p> <p>13 yes, that's correct.</p> <p>14 Q. Okay. And going down under manager's</p> <p>15 comments, same page, the paragraph numerically</p> <p>16 numbered as 2.</p> <p>17 A. Uh-huh, yes.</p> <p>18 Q. It's titled -- it's labeled, "sales</p> <p>19 partnership." Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Alright. And the second sentence</p> <p>22 there says, "work closely with DM's" -- what's a DM?</p> <p>23 A. Wait. I see RD's first. Is that</p> <p>24 around the same -- oh, no, up top, under No. 2.</p> <p>25 "Works close with DM's," yes, those were</p>



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<p>1 division managers.</p> <p>2 Q. Okay. "Work closely with division</p> <p>3 managers and RBD" -- what's an RBD?</p> <p>4 A. That would be a regional business</p> <p>5 director, which is the director above the DM.</p> <p>6 Q. (Continuing.) "To optimize Prof Ed</p> <p>7 to achieve training and budget targets and meet</p> <p>8 sales business plan objectives."</p> <p>9 So what was the Prof Ed's sales business</p> <p>10 plan objectives in 2007?</p> <p>11 A. You'd have to ask the sales or</p> <p>12 marketing folks. I don't have -- I'm not sure what</p> <p>13 the business plan was for that year.</p> <p>14 Q. Well, you had to have some idea</p> <p>15 because part of your job duty and responsibility was</p> <p>16 to meet the sales business plan objectives?</p> <p>17 MR. COMBS: Object to the form.</p> <p>18 A. I think my objectives, if I read this</p> <p>19 correctly, was to achieve training and budget</p> <p>20 targets.</p> <p>21 Q. "And meet sales business plan</p> <p>22 objectives."</p> <p>23 A. Again, work closely with DM's and</p> <p>24 RBD's to optimize Prof Ed to treat -- I'm sorry, to</p> <p>25 achieve training and budget targets and to meet</p>	<p>1 continued enhanced like tele-surgeries will continue</p> <p>2 in 2008 as well."</p> <p>3 Q. So you didn't have a problem or you</p> <p>4 weren't confused about anything on Page 1, were you?</p> <p>5 MR. COMBS: Object to the form.</p> <p>6 A. No. But I think that's referencing</p> <p>7 objective three but...</p> <p>8 Q. Alright. Okay. 2008 is when you got</p> <p>9 your promotion within Prof Ed, right?</p> <p>10 A. That's correct.</p> <p>11 (Deposition Exhibit No. T761, 2008</p> <p>12 Performance and Development Plan Summary for</p> <p>13 Bartholomew Pattysen ETH.MESH.0892318 to 08692324</p> <p>14 marked Confidential Subject to Stipulation and Order</p> <p>15 of Confidentiality, was marked for identification.)</p> <p>16 (There is a discussion off the record.)</p> <p>17 Q. How did your promotion come about</p> <p>18 within Prof Ed?</p> <p>19 A. How did it come about?</p> <p>20 Q. Yes. Did you apply for a new</p> <p>21 position or --</p> <p>22 A. I did.</p> <p>23 Q. -- did your supervisors come to you</p> <p>24 and say, hey, we want to promote you?</p> <p>25 A. I applied for the position.</p>
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<p>1 business -- sales business plan objectives, which to</p> <p>2 my understanding have, you know, training doctors as</p> <p>3 a part of their business plan. So I helped them</p> <p>4 with that.</p> <p>5 Q. Okay. That doesn't say that in here,</p> <p>6 though?</p> <p>7 A. Okay. I didn't write this either, so</p> <p>8 I don't know what his comments are or were.</p> <p>9 Q. But, Mr. Pattysen, you reviewed this.</p> <p>10 In fact, the company gives you an opportunity to</p> <p>11 respond to this. So let's turn over to Page 2 under</p> <p>12 employee comments.</p> <p>13 A. Uh-huh.</p> <p>14 Q. Did you have any problem at all with</p> <p>15 anything he said about you meeting the sales</p> <p>16 business objectives on Page 1? Why don't you read</p> <p>17 your employee comments to the ladies and gentlemen</p> <p>18 of the jury?</p> <p>19 A. Under No. 2?</p> <p>20 Q. Employee comments, the only section</p> <p>21 on Page -- the next page.</p> <p>22 A. Oh, I'm sorry. "All projects above</p> <p>23 while gaining momentum are long-term projects; LAP</p> <p>24 program received great feedback, and will be</p> <p>25 reinstituted in 2008; PROSIMA e-modules and</p>	<p>1 Q. Okay. So let's go down to -- first</p> <p>2 of all, this is Bates No. 08692381.</p> <p>3 MR. COMBS: 2318.</p> <p>4 MS. WILSON: 2318.</p> <p>5 Q. So let's go down to the bottom of the</p> <p>6 page under -- there is a section here on your</p> <p>7 performance and development plan for 2008. This was</p> <p>8 completed in February of 2009, sales partnership.</p> <p>9 And it says, "Effectively manage Professional</p> <p>10 Education within assigned sales division." Do you</p> <p>11 see that?</p> <p>12 A. I do.</p> <p>13 Q. So, in your role as Professional</p> <p>14 Education manager, you had assigned sales regions</p> <p>15 that you worked with?</p> <p>16 A. That's correct.</p> <p>17 Q. Okay. How many?</p> <p>18 A. At this time?</p> <p>19 Q. Yes.</p> <p>20 A. Or...</p> <p>21 If you're asking me how many divisions,</p> <p>22 right? Four, typically, four, maybe five.</p> <p>23 Q. Okay. And then the next sentence</p> <p>24 says, "Work closely with DM's and RBD's to optimize</p> <p>25 Prof Ed to achieve training and budget targets and</p>

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<p>1 meet sales business plan objectives." Do you see 2 that? 3 A. I do. 4 Q. It's the exact same as the year 5 before, isn't it? 6 A. That's not exactly the same, but some 7 of the words are similar to the previous, yes. 8 Q. Okay. Well, can we agree that Prof 9 Ed is to achieve training and budget targets and 10 meet sales business plan objectives is just like 11 your last exhibit? I mean, if you want to pull it 12 out, you got them right there in front of you. You 13 can compare them, if you can. 14 A. No, I realize they're worded very 15 similarly, yes. 16 Q. Now, look at "action plan." Do you 17 see that at the very bottom? 18 A. I do. 19 Q. And then if you go to the kind of 20 second point under action plan, which is actually 21 the top of the next page, it says, "Continue talent 22 development by conducting regular sales 23 representative field rides." 24 A. Uh-huh, yes. 25 Q. So, as Professional Education</p>	<p>1 MR. COMBS: Asked and answered. 2 A. She is or I should say was my 3 director for a period of time during Prof Ed. 4 Q. Okay. For the sake of brevity, I'm 5 going to skip through a few. And I want to talk to 6 you about something that happened last year. 7 MS. WILSON: And, unfortunately, I 8 don't have a copy of this. This is 9 ETH.MESH.08692278. 10 (There is a discussion off the record.) 11 MR. COMBS: Is this Exhibit 762? 12 MS. WILSON: It will be, sir. 13 MR. COMBS: Okay. 14 (Deposition Exhibit No. 762, Memorandum to 15 Bart Pattyson from Dave Bourdeau ETH.MESH.08692278 &amp; 16 08692279 marked Confidential Subject to Stipulation 17 and Order of Confidentiality, was marked for 18 identification.) 19 (There is a discussion off the record.) 20 Q. Who is Dave Bourdeau? 21 A. Dave Bourdeau is the worldwide 22 director of Prof Ed. 23 Q. Okay. Is he your boss? 24 A. He would be my previous boss's boss. 25 Q. Okay. Who was your boss June 6th,</p>
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<p>1 manager, you were actually -- part of your job duty 2 and responsibilities were actually to do field rides 3 with the sales reps? 4 A. Well, I was a sales trainer in my 5 previous role. So I did a lot of field rides and 6 assisting with and coming in and assisting with 7 training of sales reps in that role. 8 So, in this role, I still did that. And it 9 looks like this was under action plan. So this 10 would be something that at that time, I guess, 11 Lisette had said, continue to do that to help them 12 in any way that I can maybe with anything that they 13 might have questions on that I can help them with. 14 Q. So, if I understand your testimony, 15 you in Professional Education actually had more 16 contact with the sales reps than perhaps others? 17 A. No. There is many salespeople that 18 go into Prof Ed so -- and all of us communicate on 19 various levels with sales reps on a regular basis, 20 yes. 21 Q. But you were having a lot of 22 communications with sales? 23 A. Yes. 24 Q. Okay. And who is Lisette 25 Caro-Rosado?</p>	<p>1 2012? 2 A. Paul Parisi. 3 Q. Okay. 4 A. June 6th, yeah, Paul Parisi. 5 Q. So this is a letter where you 6 received a verbal warning from the company on 7 May 21st, 2012, and I'll read this into the record. 8 "It was brought to my attention you had a 9 conversation with your direct supervisor on Friday, 10 May 11th, 2012, regarding his upcoming job 11 interview." So would that have been Mr. Parisi? 12 A. That's correct. 13 Q. Okay. And he's been deposed in this 14 litigation before, right? 15 A. I believe so. 16 Q. Okay. And were you and him pretty 17 good friends? 18 A. As friendly as you can be with your 19 manager, yes. 20 Q. Okay. "In this conversation, the 21 subject of interview guides came up and he indicated 22 it would be good if he knew what questions were 23 going to be asked of him." 24 Was he applying for some sort of position? 25 A. There was some reorganization</p>

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<p>1 happening at the time in the company, yes.</p> <p>2 Q. "You confirmed, you asked him if he</p> <p>3 would like for you to obtain a copy of the interview</p> <p>4 guides. He indicated, yes, and then you went and</p> <p>5 asked the administrative associate who was managing</p> <p>6 the interview process for a copy of the interview</p> <p>7 guide."</p> <p>8 Was this violation of company policy?</p> <p>9 A. I, certainly, didn't think so because</p> <p>10 these interview guides that we're referring to are</p> <p>11 publically available on our Intranet.</p> <p>12 Q. Okay. Why didn't Mr. Parisi just get</p> <p>13 it himself then?</p> <p>14 A. Because you really need to see your</p> <p>15 Intranet site and we have many of them. It's a</p> <p>16 little tough to find documents on there.</p> <p>17 Q. But you were able to find it easily?</p> <p>18 A. Yeah -- no, that's actually why I</p> <p>19 went to the administrative assistant. But I didn't</p> <p>20 know where these were because these were newer</p> <p>21 interview guides.</p> <p>22 Q. Okay. So you went to some trouble to</p> <p>23 get this for Mr. Parisi?</p> <p>24 A. I wouldn't call it "trouble." I just</p> <p>25 walked down a few steps and asked our admin if she</p>	<p>1 A. I believe so.</p> <p>2 Q. Okay. So would it have been cheating</p> <p>3 or dishonest for Mr. Parisi to already have the</p> <p>4 interview questions, if other people didn't already</p> <p>5 have the interview questions?</p> <p>6 A. I think this is in reference to an</p> <p>7 interview guide. So, as I mentioned, these are</p> <p>8 publically available in our company. They are in</p> <p>9 the public domain, if you will, within the company.</p> <p>10 Q. Well, can you tell the ladies and</p> <p>11 gentlemen of the jury why your company had a problem</p> <p>12 and reprimanded you about this?</p> <p>13 A. No. I'm afraid I can't.</p> <p>14 Q. You don't think you did anything</p> <p>15 wrong?</p> <p>16 A. No, I, honestly, don't.</p> <p>17 Q. Okay. Did you tell Mr. Bourdeau</p> <p>18 that?</p> <p>19 A. I absolutely did.</p> <p>20 Q. Okay. He disagreed, right?</p> <p>21 A. You'd have to ask him where his</p> <p>22 stance is on that right now.</p> <p>23 Q. I'm just saying in the letter. He</p> <p>24 said, do it again, I'm going to fire you, pretty</p> <p>25 much, right?</p>
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<p>1 would -- if she can provide it.</p> <p>2 Q. Okay. And she did, right?</p> <p>3 A. I believe she did, yes.</p> <p>4 Q. Okay. And then Mr. Bourdeau goes on</p> <p>5 to say, "As I explained to you on our conversation</p> <p>6 on May 21, 2012, this incident exhibits</p> <p>7 inappropriate behavior on your part. As we also</p> <p>8 discussed, your supervisor could have represented</p> <p>9 himself and although inappropriate could have</p> <p>10 requested the interview guide himself versus having</p> <p>11 you try to obtain the interview guides. Bart, this</p> <p>12 serves as a formal warning. Failure to correct this</p> <p>13 behavior and/or any further violation of company</p> <p>14 policy, standards or practices will result in</p> <p>15 additional disciplinary action up to and including</p> <p>16 termination of your employment. A follow-up meeting</p> <p>17 has been scheduled for delivery of this on June 6th,</p> <p>18 2012 at 11:00 a.m."</p> <p>19 Did that meeting happened?</p> <p>20 A. Yes, I believe it did.</p> <p>21 Q. What happened at that meeting?</p> <p>22 A. I think what they just discussed,</p> <p>23 that I would be receiving this warning.</p> <p>24 Q. Okay. Were there other people</p> <p>25 competing for this job?</p>	<p>1 MR. COMBS: Objection to form.</p> <p>2 A. The warning says something to that,</p> <p>3 you know, further behavior or failure to correct the</p> <p>4 behavior could result in other action, yes.</p> <p>5 Q. Up to and including termination of</p> <p>6 your employment?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. Are you familiar with the IFU</p> <p>9 for the TVT-S product?</p> <p>10 A. Yes.</p> <p>11 Q. Has that IFU, to the best of your</p> <p>12 knowledge, ever been updated or changed from launch</p> <p>13 until the time Ethicon or Johnson &amp; Johnson</p> <p>14 voluntarily took it off the market?</p> <p>15 A. I do not recall if it was updated or</p> <p>16 changed, no. But I didn't work in that department.</p> <p>17 Q. Well, why was it taken off the</p> <p>18 market?</p> <p>19 A. I can't answer that.</p> <p>20 MR. COMBS: And object to the form.</p> <p>21 Q. What did the company tell you about</p> <p>22 why they were taking it off the market?</p> <p>23 MR. COMBS: Can I have a continued --</p> <p>24 just a continued objection to the form on that?</p> <p>25 MS. WILSON: Sure.</p>

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<p>1 MR. COMBS: Okay.</p> <p>2 A. Can you repeat the question, please?</p> <p>3 Q. What did the company tell you as</p> <p>4 worldwide director of Professional Education as to</p> <p>5 why this product was coming off the market?</p> <p>6 A. Not a lot, to be honest. My</p> <p>7 understanding was that, that was a space, as they</p> <p>8 refer to it in marketing, that we no longer wish to</p> <p>9 participate in, from a product perspective. So that</p> <p>10 was my understanding.</p> <p>11 Q. I'm going to mark the IFU as</p> <p>12 Exhibit 763 and have you take a look at it. I'm not</p> <p>13 going to talk about it a lot now, but I want you to</p> <p>14 keep it handy.</p> <p>15 Take a look at it and tell me if you</p> <p>16 recognize it.</p> <p>17 A. Okay.</p> <p>18 (Deposition Exhibit No. T763, IFU for</p> <p>19 Gynecare TVT Secur ETH.MESH.02340568 to 02340590,</p> <p>20 was marked for identification.)</p> <p>21 A. Yes.</p> <p>22 Q. Okay. You can kind of put that aside</p> <p>23 for now.</p> <p>24 A. Okay.</p> <p>25 Q. Is it fair to say that the entire</p>	<p>1 A. But I did meet them at some events I</p> <p>2 attended, yes.</p> <p>3 Q. I can probably find the exact place</p> <p>4 you testified to this, so we can, if we need to.</p> <p>5 Why don't you tell me then today if as the</p> <p>6 director, worldwide director of Professional</p> <p>7 Education, did that put you in a position to</p> <p>8 communicate with more people, specifically,</p> <p>9 physician customers about the J&amp;J products?</p> <p>10 MR. COMBS: Object to form.</p> <p>11 A. Yes, I met more customers in that</p> <p>12 role traveling overseas, that's correct, and I met</p> <p>13 preceptees and preceptors in that time.</p> <p>14 Q. Okay. And did you consider feedback</p> <p>15 that you got from your physician customers important</p> <p>16 on the use of the company products?</p> <p>17 A. Absolutely.</p> <p>18 Q. And, as you've talked here for the</p> <p>19 last day and a half, you considered safety an</p> <p>20 important issue?</p> <p>21 A. Probably one of the most important</p> <p>22 issues, if not the...</p> <p>23 Q. Okay. I'm sorry, it's taking just a</p> <p>24 minute to copy.</p> <p>25 A. No problem.</p>
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<p>1 time TVT-S was on the market you were in</p> <p>2 Professional Education?</p> <p>3 A. Forgetting the exact date of when it</p> <p>4 was withdrawn, I think, that would be safe to say.</p> <p>5 Q. Okay.</p> <p>6 (There is a discussion off the record.)</p> <p>7 Q. And were you involved in planning,</p> <p>8 managing, overseeing Professional Education events</p> <p>9 involving TVT-S?</p> <p>10 A. Yes.</p> <p>11 Q. And would you be familiar with the</p> <p>12 Professional Education materials used for those</p> <p>13 events?</p> <p>14 A. Yes. The ones I participated in.</p> <p>15 Q. Okay. And, as the worldwide director</p> <p>16 of Professional Education, you testified yesterday</p> <p>17 and, I think, today too that puts you in a position</p> <p>18 to communicate with preceptees all over the world</p> <p>19 and get feedback from them on various products; is</p> <p>20 that correct?</p> <p>21 A. I don't remember that exact</p> <p>22 statement, if you will. But I did meet preceptees</p> <p>23 at international events. More often than not I was</p> <p>24 liaising with J&amp;J folks.</p> <p>25 Q. Okay.</p>	<p>1 (There is a discussion off the record.)</p> <p>2 Q. Mr. Pattysen, I'm going to represent</p> <p>3 to you that this is what's been produced in this</p> <p>4 litigation by your company as an index of all the</p> <p>5 Professional Ed materials that got used on the</p> <p>6 various TVT products.</p> <p>7 A. Okay.</p> <p>8 Q. All I want to focus on, okay, is what</p> <p>9 got used in any way shape or form for Professional</p> <p>10 Ed on TVT-S, okay?</p> <p>11 A. Okay.</p> <p>12 MR. COMBS: Objection to counsel's</p> <p>13 statement.</p> <p>14 MS. WILSON: What statement was</p> <p>15 objectionable?</p> <p>16 MR. COMBS: Just that the statement</p> <p>17 that you placed on the record and made to the</p> <p>18 witness regarding what was represented in relation</p> <p>19 to the production of this chart so...</p> <p>20 MR. THORNBURGH: I'm sorry. I'm just</p> <p>21 trying to understand. It was the entire</p> <p>22 Professional Education material that went -- the</p> <p>23 copy approved process?</p> <p>24 MR. COMBS: It was represented that</p> <p>25 this was the -- basically, the representation made,</p>

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<p>1 as I understand it, because I didn't make it, was 2 that it was the best the company was able to 3 determine at this time. That's what I understand 4 the representation was. 5 MS. WILSON: I understand this to be 6 produced to us, all the TVT Professional Education 7 materials used. Maybe you want to take a look at 8 that. Are you telling me that it's not? 9 MR. COMBS: No, I didn't say that. I 10 said that the representation made was that this is 11 what the company had been able to identify to date. 12 MS. WILSON: Okay. 13 MR. THORNBURGH: So I'm just trying 14 understand. Has the company identified additional 15 Professional Ed material that hasn't been provided 16 to us in the last few days? 17 MR. COMBS: Not that I'm aware of. 18 MR. THORNBURGH: Is there another 19 index; is that what you're saying? Is there another 20 index that we have that's different than that one? 21 MR. COMBS: Not that I'm aware of. 22 I just think it's important that the 23 representations made on the record are accurate. 24 That was what the representation made was. But, no, 25 I'm not aware of additional index.</p>	<p>1 witness that we're deposing. 2 So what I want you to do for me is to go 3 through this index and tell me what Professional Ed 4 materials, which ones in any way, shape or form 5 pertain to TVT-S and that's all, okay? 6 A. Okay. Just based on the description 7 here? 8 Q. If you can. 9 A. Yeah, sure. 10 Q. And what we'll do -- 11 MS. WILSON: Let me finish and then 12 you can place your objection, whatever you have. 13 Q. And what we'll do, in fairness to 14 you, because I realize it's hard to identify from a 15 chart, I pulled what I believe to be all the TVT-S 16 Professional Education material. So we'll go 17 through that stack as well. But let's just start 18 with this chart. 19 A. Sure. 20 MR. COMBS: Yeah. And I'll just also 21 point out for the record that Mr. Pattyson is here 22 testifying as a fact witness, not as a 30(b)(6) 23 witness. 24 MS. WILSON: I totally agree. 25 Q. Okay. So go through the index and</p>
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<p>1 MR. THORNBURGH: I'm just trying to 2 understand what's inaccurate about the 3 representation, just so that we have it. 4 MR. COMBS: Her representation on the 5 record was that we said that this was everything, 6 and that's not what we said. This is -- what we 7 said is this is what we have been able to identify 8 to date. 9 MR. THORNBURGH: I gotcha. 10 MR. ROSENBLATT: There could be 11 something that if we find anything else. But they 12 wanted to establish at that point in time and that's 13 what we were able to provide. 14 MR. THORNBURGH: To the extent 15 there's more, then we may have to come back and take 16 additional depositions. 17 MR. COMBS: And I'm not aware of an 18 additional index. That's the representation. I 19 want the record to be correct. 20 MS. WILSON: Okay, fair enough. 21 Q. To be clear, this is what was 22 produced to Plaintiffs' counsel on June 4th of 2013 23 about five weeks ago. And this is what we've used 24 in preparation, specifically, for your deposition, 25 okay. Because you're the Professional Ed fact</p>	<p>1 identify for me -- 2 A. Okay. That's what you would like me 3 to do? 4 Q. Yeah. And you can do it by number, 5 okay? 6 A. That first number to the left. 7 Q. Yes. 8 A. Okay. 9 And the copy approval index date, copy 10 approval date. 11 Okay. So TVT tension-free vaginal tape is 12 No. 1, that's not -- I don't know that to be a 13 Secur. 14 Q. That is not a Secur? 15 A. Not to my knowledge. 16 TVT Prof Ed program, again, based on this 17 title and date, I would presume, no. 18 Do you want me to go through each one like 19 this? 20 Q. You know, it's fine if you just 21 identify what is TVT-S -- 22 A. Okay. 23 Q. -- rather than -- 24 A. Based on -- yeah, sure. It's tough 25 to say if TVT-Secur was presented just by looking at</p>

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<p>1 the title. Some would probably be obvious.</p> <p>2 If I look at No. 16, 17, 18, 19, 20, 21,</p> <p>3 combined TVT Prof Ed slide deck might include Secur</p> <p>4 TVT video -- No. 24 -- so that was 23 and 24.</p> <p>5 What is left behind -- I don't recall. The</p> <p>6 tough part here for me is to remember -- a lot of</p> <p>7 our decks to say includes anything -- if it just</p> <p>8 includes a slide on TVT-Secur, is that enough? If</p> <p>9 it includes any information on Secur, correct?</p> <p>10 Q. Yes, that's right any information.</p> <p>11 A. So I must be honest that there might</p> <p>12 be slides that represent TVT-Secur information if</p> <p>13 the market was -- if the product was on the market</p> <p>14 in any one of these decks, but I'm just going by</p> <p>15 what I see has TVT-Secur kind of in the title.</p> <p>16 Q. I want you to go by what you see, but</p> <p>17 I also want you to go on what you know, based upon</p> <p>18 your knowledge. If you recall any of these</p> <p>19 education materials pertaining to TVT-S, tell me</p> <p>20 that as well. So what you see and what you know.</p> <p>21 A. Yeah. I'll state again that I</p> <p>22 participated in whether on a video conference like a</p> <p>23 webinex, it could be a dinner event, it could be a</p> <p>24 cadaver lab, it could be a preceptorship. I've seen</p> <p>25 a lot of decks that were used in Prof Ed. I've seen</p>	<p>1 Certainly, 27 looks like it spoke to it, 28,</p> <p>2 29. I would put to you that Exact and Abbrevio, so</p> <p>3 any of these decks could have spoken to TVT-Secur.</p> <p>4 If it was on the market. So I would send, you know</p> <p>5 -- I don't see any that may not have included</p> <p>6 something. That's true.</p> <p>7 MR. COMBS: Yeah. And I just want to</p> <p>8 place something on the record and correct a</p> <p>9 statement I made.</p> <p>10 I spoke to Mr. Rosenblatt. He said that</p> <p>11 there is a subsequent index that was produced to</p> <p>12 Plaintiffs' counsel. I wasn't involved in that</p> <p>13 but...</p> <p>14 MR. ROSENBLATT: I believe it would</p> <p>15 have been June 13th or 14th around there. It had 52</p> <p>16 entries.</p> <p>17 MS. WILSON: With 52?</p> <p>18 MR. ROSENBLATT: I believe that's the</p> <p>19 correct number.</p> <p>20 MS. WILSON: I don't have that.</p> <p>21 Do you have that?</p> <p>22 MR. THORNBURGH: I don't know what</p> <p>23 you're looking at.</p> <p>24 MS. WILSON: Let's take a look.</p> <p>25 MR. COMBS: Well, I'm looking at what</p>
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<p>1 a lot of decks and, I think, some of them here today</p> <p>2 that might have been used in a Prof Ed, might not</p> <p>3 have. There's a lot of decks that I've seen over</p> <p>4 the course of my career and all of them have various</p> <p>5 titles.</p> <p>6 So, even the one I see here says,</p> <p>7 TVT-Abbrevio, there could potentially be TVT-Secur</p> <p>8 information in that deck. So I just put to you that</p> <p>9 it's difficult for me to say which decks had -- I</p> <p>10 can see ones that seem to focus on it. That's clear</p> <p>11 to me.</p> <p>12 Q. Okay. I think we left off on 25.</p> <p>13 A. Yes.</p> <p>14 Q. Does that have TVT-S? I think it did</p> <p>15 a little bit.</p> <p>16 A. Yeah. I don't know. I mean, it's</p> <p>17 referring to the mesh, which was used in the sling</p> <p>18 so...</p> <p>19 Q. I think it did. Yeah, I know it did.</p> <p>20 25 I've got that pulled.</p> <p>21 So what about 26?</p> <p>22 A. TVT local awareness dinner? I'm sure</p> <p>23 it was about TVT-O, but it's clinical consideration.</p> <p>24 So, if Secur was on the market, it could have. It</p> <p>25 looks like this was a focus on TVT-O, though.</p>	<p>1 --</p> <p>2 MR. THORNBURGH: I haven't seen what</p> <p>3 she provided as an exhibit. So I don't know --</p> <p>4 Q. My colleague may have something more</p> <p>5 updated. This is all I've received.</p> <p>6 A. Okay.</p> <p>7 Q. But, in just sake of time continuing</p> <p>8 on, is there anything on this list -- put it like</p> <p>9 this.</p> <p>10 Are there any Professional Education</p> <p>11 materials dealing with TVT-S that you remember</p> <p>12 that's not on this list?</p> <p>13 A. Yeah. I mean, these are -- are you</p> <p>14 talking -- these look like mostly just -- no,</p> <p>15 there's decks and videos. But I seem to recall</p> <p>16 there's, you know, brochures, other information that</p> <p>17 might refer to TVT-Secur. I don't know if there is</p> <p>18 a selling guide or something. I don't recall right</p> <p>19 now at this moment. But beyond the deck, we often</p> <p>20 had other materials that would be adjunctive to</p> <p>21 that kind of course.</p> <p>22 MS. WILSON: Okay. And I can easily</p> <p>23 get -- we'll e-mail someone and have them sent over.</p> <p>24 You said it was June 13th?</p> <p>25 MR. ROSENBLATT: Around that</p>

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<p>1 timeframe.</p> <p>2 MS. WILSON: Okay.</p> <p>3 MR. ROSENBLATT: And all the -- I</p> <p>4 don't think that is inclusive of all of the videos.</p> <p>5 MS. WILSON: Okay.</p> <p>6 MR. ROSENBLATT: Those have been</p> <p>7 produced on hard drive.</p> <p>8 MS. WILSON: Okay, okay. I'll send</p> <p>9 an e-mail.</p> <p>10 Why don't we take a short break. I can tell</p> <p>11 you -- I mean, I'm not done with TVT-S by any</p> <p>12 stretch. I just started it.</p> <p>13 MR. COMBS: Well, I mean, that's --</p> <p>14 MS. WILSON: And I haven't repeated</p> <p>15 any questions and I don't think I've been slow.</p> <p>16 MR. COMBS: But that was the whole</p> <p>17 point of yesterday and why I tried to place on the</p> <p>18 record and inform everybody and why we sent a letter</p> <p>19 in advance, you know, so that you guys would budget</p> <p>20 your time.</p> <p>21 I mean, earlier today Mr. Thornburgh spent a</p> <p>22 half an hour asking this witness questions about a</p> <p>23 presentation that then Mr. Thornburgh then</p> <p>24 questioned him on to say that you weren't even there</p> <p>25 and you don't even have any firsthand knowledge</p>	<p>1 No. I is I did cut back on a lot of my</p> <p>2 questioning that I had for this witness because</p> <p>3 there was a lot of information that this witness had</p> <p>4 with his custodial file. So I have -- I did</p> <p>5 everything I could to accommodate rather than come</p> <p>6 in and use the 50 exhibits that I had, I came in and</p> <p>7 used like 4 or 5 this morning.</p> <p>8 And questioning about Professional Education</p> <p>9 material that was created through the Professional</p> <p>10 Education department, which was presented by a</p> <p>11 preceptor, who was a KOL, which the witness</p> <p>12 acknowledged, is absolutely relevant to this</p> <p>13 witness. So it wasn't a waste of time at all.</p> <p>14 MR. COMBS: I'm sorry. I'm sorry</p> <p>15 that I interrupted you. Go ahead.</p> <p>16 MR. THORNBURGH: Well, I don't think</p> <p>17 that matters. I think it was an important topic.</p> <p>18 He said -- he testified yesterday that the</p> <p>19 Professional Education department was proactive</p> <p>20 after the public health notification and that</p> <p>21 exhibit established, in my opinion, that they were</p> <p>22 proactive in trying to undermine the public health</p> <p>23 notification with their key opinion leaders.</p> <p>24 And so that's absolutely relevant to his</p> <p>25 testimony and I think impeached not only his</p>
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<p>1 about it and everything you're saying about is</p> <p>2 hearsay. And we walked through 31 slides in which</p> <p>3 he was asked to read slides on a specific thing that</p> <p>4 Mr. Thornburgh then attempted to introduce testimony</p> <p>5 that he didn't know -- that he didn't know about.</p> <p>6 So that was the whole point.</p> <p>7 And that was the whole point of why I asked</p> <p>8 yesterday that we establish some objective time that</p> <p>9 we would finish your questioning.</p> <p>10 I'm not finished yet.</p> <p>11 MR. THORNBURGH: Sorry.</p> <p>12 MR. COMBS: That we would have some</p> <p>13 objective time that we would finish by because I</p> <p>14 knew this would happen, that we would get to the</p> <p>15 time and you guys would say, we're not done. And at</p> <p>16 some point, you know, it should be done.</p> <p>17 I mean, this witness should have been a</p> <p>18 one-day witness. I asked, as I said yesterday,</p> <p>19 let's call the judge and let's get this issue in</p> <p>20 front of the judge. We went late last night. We</p> <p>21 started early today. We've gone, you know, a half</p> <p>22 day already. And, you know, it's not fair to him.</p> <p>23 MR. THORNBURGH: I'm sorry. Let me</p> <p>24 respond to the first part of that, I guess, because</p> <p>25 I think it was relative to my part.</p>	<p>1 credibility but his earlier testimony. So it was</p> <p>2 relevant and that was necessary.</p> <p>3 But I had and have 50 more exhibits that are</p> <p>4 relevant to this witness that I elected not to use.</p> <p>5 So it's not fair to her or to the thousands of</p> <p>6 Plaintiffs who have been injured by this product for</p> <p>7 you to cut off this deposition.</p> <p>8 MR. COMBS: The whole reason that we</p> <p>9 -- the whole reason I asked yesterday that we</p> <p>10 establish some objective time so that you guys would</p> <p>11 budget your time and question the witness. That's</p> <p>12 the whole reason. It's the whole reason that we</p> <p>13 asked that.</p> <p>14 MR. THORNBURGH: What I'm telling you</p> <p>15 is I did budget my time, you know. So she's got</p> <p>16 additional questions to ask about TVT-Secur.</p> <p>17 So, if you're telling her that she's not</p> <p>18 going to be permitted to continue to ask questions</p> <p>19 -- I mean, I don't know even know what we're</p> <p>20 talking about -- if you're saying that, then that's</p> <p>21 an issue. But, if you're not saying that, then</p> <p>22 let's move forward.</p> <p>23 MR. COMBS: I'm just waiting for you</p> <p>24 to finish and then I'm going to talk. Are you</p> <p>25 finished?</p>



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<p>1 MR. THORNBURGH: Yes.</p> <p>2 MR. COMBS: Do you have anything that</p> <p>3 you want to place on the record in that regard?</p> <p>4 MS. WILSON: Yes, I do. I spoke with</p> <p>5 lead counsel yesterday, Tom Cartmell, and spoke with</p> <p>6 Brian Elstock (phonetic), who I talk with all the</p> <p>7 time, and they have a different take on what</p> <p>8 happened before the Judge in terms of one-day</p> <p>9 depositions and two-day depositions. They never</p> <p>10 agreed that this was a one-day deposition. It is</p> <p>11 totally appropriate that this would be multi-day.</p> <p>12 We're dealing with three products here.</p> <p>13 There's -- Plaintiffs' counsel hasn't done</p> <p>14 anything wrong. We're not trying to keep anyone</p> <p>15 here for an extended period of time. But we just</p> <p>16 started TVT-S and I'm moving as quickly as I can and</p> <p>17 I'm not done. I'm not close to being done. And we</p> <p>18 have to elicit this testimony. And we're all here</p> <p>19 and, you know, it makes sense to go ahead and press</p> <p>20 on and get this done today.</p> <p>21 MR. COMBS: And how much more are we</p> <p>22 talking about?</p> <p>23 MR. THORNBURGH: Until she's done.</p> <p>24 MS. WILSON: Until I'm done. It's</p> <p>25 probably --</p>	<p>1 about continuing --</p> <p>2 MR. COMBS: If you can tell me, yeah,</p> <p>3 like I'll finish like in an hour or something like</p> <p>4 that, we'll talk --</p> <p>5 MS. WILSON: I'm not going to be done</p> <p>6 in an hour.</p> <p>7 MR. COMBS: So we're going to go all</p> <p>8 day today after -- we're going to go all day after</p> <p>9 I, specifically, asked you guys yesterday -- I said,</p> <p>10 if you plan on going all day, let's just get the</p> <p>11 Judge on the phone. I asked you that over and over</p> <p>12 again.</p> <p>13 MR. THORNBURGH: You said that at</p> <p>14 4:30.</p> <p>15 MR. COMBS: I said it yesterday</p> <p>16 morning. I said it yesterday morning when you said</p> <p>17 on record you would take a two-day deposition. I</p> <p>18 said, no, let's get on the Judge on the phone, let's</p> <p>19 figure that out. And we had a conversation on the</p> <p>20 record that we were going to talk about that. And I</p> <p>21 mean...</p> <p>22 MR. THORNBURGH: Listen --</p> <p>23 MR. COMBS: I mean, I know you don't</p> <p>24 agree. Mr. Pattyson has got rights as a witness.</p> <p>25 And that's why the federal rules say depositions are</p>
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<p>1 MR. COMBS: Okay. Let's just call</p> <p>2 the Judge. I mean, I asked you guys last night. I</p> <p>3 asked you multiple times. I said, let's call the</p> <p>4 Judge and let's get whether it's one hour, two</p> <p>5 hours, whatever, let's get some kind of time limit</p> <p>6 so that this witness doesn't have to sit here and</p> <p>7 just be questioned for days on end, you know, and --</p> <p>8 MS. WILSON: He's not.</p> <p>9 MR. THORNBURGH: I can just say one</p> <p>10 thing. We had a deposition notice that was for day</p> <p>11 to day, not two days. I mean, to make this</p> <p>12 assumption that we only have two days, I think, is</p> <p>13 inappropriate. The Court hasn't restricted us to</p> <p>14 two days.</p> <p>15 We've taken numerous multi-day depositions</p> <p>16 in this case. It's not uncommon to take multi</p> <p>17 depositions in a case this complex, in a case</p> <p>18 involving one product, nevertheless three.</p> <p>19 MR. COMBS: Okay. And any -- there</p> <p>20 is a difference between taking a multi-day</p> <p>21 deposition by agreement and taking a multi-day</p> <p>22 deposition over our opposition. It's completely</p> <p>23 different.</p> <p>24 MR. THORNBURGH: Well, listen, if you</p> <p>25 are -- if we're going to call the Judge to talk</p>	<p>1 presumptively one day. I know you don't agree with</p> <p>2 that. I know you don't think that it matters that</p> <p>3 that's what the rule says or that he has rights in</p> <p>4 that regard, but he does.</p> <p>5 MR. THORNBURGH: Listen, I appreciate</p> <p>6 that witnesses have rights. You know, I appreciate</p> <p>7 that.</p> <p>8 But we've gone through two products in less</p> <p>9 than two days, which is pretty good. And so all</p> <p>10 she's asking for --</p> <p>11 MS. WILSON: Few more hours.</p> <p>12 MR. THORNBURGH: -- is let her finish</p> <p>13 her questioning on a third product for the remainder</p> <p>14 of the day. I think it's reasonable that we try to</p> <p>15 get done three products in two days.</p> <p>16 MS. WILSON: Two days.</p> <p>17 MR. COMBS: And I wish you guys would</p> <p>18 have done me the courtesy of telling me that last</p> <p>19 night. We could have got the Court on the phone</p> <p>20 because the Court -- maybe the Court would have said</p> <p>21 you get a whole day. But it's also very, very</p> <p>22 likely the Court would have said, okay, you can have</p> <p>23 an extra hour, two hours, three, four, whatever,</p> <p>24 whatever Judge Eiffer would have said. I just wish</p> <p>25 that you guys would have done me that courtesy.</p>

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<p>1 I mean, I don't know how many exhibits you 2 have. I don't know what your plan was. I'm not 3 privy to what the length of the questions you intend 4 of the witness. And I just wish that I had been 5 afforded that courtesy and Mr. Pattyson had. I just 6 wish that because we could have got Judge Eiffer on 7 the phone and we would have all had -- the issue 8 would have been resolved.</p> <p>9 MR. THORNBURGH: So it wasn't a 10 matter of disrespect. I told you I couldn't commit 11 to a 12:30 time. That's what I told you last night. 12 And what I did last night after we left here 13 was took 50 exhibits relevant to this witness off of 14 the list and used four instead.</p> <p>15 MR. COMBS: If you're --</p> <p>16 MR. THORNBURGH: I mean, it's not a 17 matter of disrespect. It's a matter of I never 18 committed to a 12:30 end point.</p> <p>19 MS. WILSON: I definitely didn't.</p> <p>20 MR. COMBS: Well, you all speak with 21 one voice. There is not a difference here --</p> <p>22 MS. WILSON: I agree. No, I'm saying 23 we didn't. I went and got Tom on the phone, went 24 and got Brian. We did not commit stopping at 12:30 25 today. If we need to get the Judge on the phone, we</p>	<p>1 MR. COMBS: If you can't tell us how 2 long it's going to take, then let's just get Judge 3 Eiffer on the phone and just get some answer as to 4 how long you get. I mean, Judge Eiffer doesn't mind 5 being called on this.</p> <p>6 MS. WILSON: No, I know she doesn't. 7 I plan on being done by five.</p> <p>8 MR. COMBS: What?</p> <p>9 MS. WILSON: I plan on being done by 10 five.</p> <p>11 MR. COMBS: You know, I have to 12 redirect the witness. So when am I supposed to 13 redirect the witness?</p> <p>14 MS. WILSON: I don't know. I mean, I 15 plan on --</p> <p>16 MR. COMBS: Okay. Then, you know, I 17 mean, it's unbelievable.</p> <p>18 MS. WILSON: Let's get Tom too 19 because I want more accurately what happened on that 20 issue.</p> <p>21 (Lunch recess taken 12:45 to 1:40 p.m.)</p> <p>22 THE VIDEOGRAPHER: The time is now 23 1:43. This is the beginning of Disk No. 4. We are 24 back on the record.</p> <p>25 MR. COMBS: Yeah, just before we get</p>
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<p>1 will. It's going to waste a lot of time and money 2 if we just don't go ahead and bang this out.</p> <p>3 MR. COMBS: No, it's not a waste of 4 time. It's going to save time.</p> <p>5 MS. WILSON: Okay.</p> <p>6 MR. COMBS: It's not going to waste 7 time. It's going to save time because we will have 8 some limit on how long this deposition lasts, which 9 we don't have.</p> <p>10 MS. WILSON: We can get the Court on 11 the phone. But we've got to have testimony from 12 this witness on TVT-S and we don't have it.</p> <p>13 MR. COMBS: Okay. Well, let's get -- 14 and you're telling me you're going to take the rest 15 of the day on TVT-S with this witness?</p> <p>16 MS. WILSON: I'm saying I'm going to 17 take more than an hour. That's for sure.</p> <p>18 MR. COMBS: I mean, how long are you 19 going to take? If you can't tell me -- we can go 20 off the video. This doesn't need to be on video.</p> <p>21 Go ahead -- we can go off the video. We 22 will remain on the record.</p> <p>23 THE VIDEOGRAPHER: The time is now 24 12:47. This is the end of Disk No. 3. We're going 25 off the record.</p>	<p>1 started, we broke for lunch. We had considerable 2 disagreement about the length of the deposition.</p> <p>3 Where it ultimately resolved is that 4 Plaintiffs agreed that they're going to be finished 5 before 3:30. We are then going to do our redirect 6 and we're going to be done with this deposition, 7 so...</p> <p>8 MS. WILSON: I may have questions 9 after you're done doing your redirect but...</p> <p>10 Q. Anyways...</p> <p>11 Mr. Pattyson, we're back on the record here 12 and I want to mark what is an updated index 13 outlining identifying the Professional Ed materials 14 that were used by your company for the various TVT 15 products. It will be Exhibit 765.</p> <p>16 (Deposition Exhibit No. T764, TVT/SUI 17 Professional Education Index and Production Bates 18 Range Chart, was marked for identification.)</p> <p>19 (Deposition Exhibit No. 765, updated index 20 outlining Professional Ed materials that were used 21 by Ethicon for the various TVT products no Bates, 22 was marked for identification.)</p> <p>23 MS. WILSON: And I'm going to mark 24 this -- let's see here. I'm not to -- at the top, 25 here.</p>

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<p>1 MR. COMBS: Thank you.</p> <p>2 Q. I don't think this really changes</p> <p>3 what you identified from the last exhibit, but let's</p> <p>4 go ahead and go through it again.</p> <p>5 And based upon what you're seeing on this</p> <p>6 index, in addition to your personal knowledge in</p> <p>7 Professional Education, please go through this index</p> <p>8 and identify all Professional Ed materials which</p> <p>9 pertain to TVT-S in any way.</p> <p>10 A. Okay. To the best of my ability, I</p> <p>11 will try to identify. But, as I mentioned before,</p> <p>12 there could be -- I hope I don't speak out of turn</p> <p>13 because there are decks that don't have TVT-Secur in</p> <p>14 the title and just by the date and the information</p> <p>15 that I have here, I may not be able to be a hundred</p> <p>16 percent accurate that TVT-Secur was in or not in</p> <p>17 that deck. I'm not -- I just want to make that</p> <p>18 clear. But I'm happy to go through.</p> <p>19 Q. Alright.</p> <p>20 A. Based on the approval date...</p> <p>21 MR. COMBS: Can I just -- I mean,</p> <p>22 Paul -- I mean, we wouldn't -- up until -- we don't</p> <p>23 start until 2006 until item 25.</p> <p>24 THE WITNESS: Yeah, I was just</p> <p>25 double-checking the dates, that they're all in</p>	<p>1 this.</p> <p>2 MR. COMBS: I apologize. Which one?</p> <p>3 MS. WILSON: It's the very first one</p> <p>4 dealing with TVT-S.</p> <p>5 MR. COMBS: The 26th, okay.</p> <p>6 MS. WILSON: I gave you the dates,</p> <p>7 July 12th, 2006.</p> <p>8 MR. COMBS: Okay.</p> <p>9 MS. WILSON: Okay. I'll put a</p> <p>10 sticker on it.</p> <p>11 (Deposition Exhibit No. T766, slide deck</p> <p>12 Gynecare TVT Secur* System Tension-Free Support for</p> <p>13 Incontinence ETH.MESH.00308094, was marked for</p> <p>14 identification.)</p> <p>15 Q. And, for all these Professional Ed</p> <p>16 pieces I'm giving you, I'm going to have, basically,</p> <p>17 the same questions and I'm going to try to get</p> <p>18 through it quickly.</p> <p>19 First of all, can you take a look at the</p> <p>20 document and tell me if you recognize it?</p> <p>21 A. Yes, I do recognize it.</p> <p>22 Q. Okay. And was this a Professional Ed</p> <p>23 piece that was used in some of the Professional Ed</p> <p>24 events with preceptees?</p> <p>25 A. I do recognize this as being a --</p>
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<p>1 order, and I was just looking at that.</p> <p>2 A. Okay. TVT-O summit meeting topic.</p> <p>3 TVT-Secur -- well, certainly, 26.</p> <p>4 Q. Okay.</p> <p>5 A. 27, 28, 29, 30, 31, 32. I presume 35</p> <p>6 is -- or, I'm sorry, 33 could have included that.</p> <p>7 Q. Okay.</p> <p>8 A. 34. 2008 TVT-O -- again, a lot of</p> <p>9 decks we had did refer to previous versions. So --</p> <p>10 you know, of TVT like, for example, would also be</p> <p>11 represented in this deck, in addition to TVT</p> <p>12 Obturator. So combine TVT deck, that might have</p> <p>13 Secur.</p> <p>14 Nothing 37. 38, yes. 39 I would presume.</p> <p>15 Clinical considerations? TVT -- I would say 42.</p> <p>16 And those are -- like I said, all the ones</p> <p>17 on here that are referring to other systems may have</p> <p>18 had reference to TVT-Secur so...</p> <p>19 Q. Okay.</p> <p>20 A. Yeah, that's tough to say from this</p> <p>21 sheet.</p> <p>22 Q. Okay. Alright. So let's start with</p> <p>23 the one titled, "TVT-Secur Professional Education</p> <p>24 Presentation," dated July 12, 2006, and the Bates</p> <p>25 No. is 00308094. And I'm going to have you identify</p>	<p>1 yeah, this looks like one of the decks we would have</p> <p>2 used, correct.</p> <p>3 Q. Okay. Who provided the substance of</p> <p>4 this presentation, meaning, who created this?</p> <p>5 A. I wouldn't be able to tell you that</p> <p>6 for certain.</p> <p>7 Q. Okay. Based on your knowledge in</p> <p>8 Professional Ed and the relationships you had with</p> <p>9 all these various departments that helped put on</p> <p>10 these events, who created this document, who came up</p> <p>11 with the substance of this?</p> <p>12 A. Like I said, I didn't and I don't</p> <p>13 know anybody in my department that would have</p> <p>14 either. So I can't answer that question.</p> <p>15 Q. Who could answer that question?</p> <p>16 A. Probably the copy approval team.</p> <p>17 They might know --</p> <p>18 Q. Okay.</p> <p>19 A. -- who submitted the deck and whoever</p> <p>20 submitted it might know.</p> <p>21 Q. How long was this exhibit used by the</p> <p>22 Professional Ed department for TVT-S, do you know</p> <p>23 how long this was used?</p> <p>24 A. I don't.</p> <p>25 Q. Okay. Was there ever a time that you</p>

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<p>1 stopped using it for any reason?</p> <p>2 A. Well, oftentimes in Prof Ed, we</p> <p>3 update material. So -- and a lot of times the</p> <p>4 material that's present here carries over into a new</p> <p>5 deck. So we kind of just update our content</p> <p>6 whenever that is needed and put it back through copy</p> <p>7 review and that sort of thing. So to say when the</p> <p>8 content stopped is tough because some of it is</p> <p>9 enduring, if you know what I mean.</p> <p>10 Q. Is there someone within Professional</p> <p>11 Ed or some other department who could tell us how</p> <p>12 many times this Prof Ed material, this slide deck</p> <p>13 was used at events, basically, how many times and</p> <p>14 when it was used?</p> <p>15 A. How many events this particular deck?</p> <p>16 Q. Yes, sir.</p> <p>17 A. I don't know. We did a lot of events</p> <p>18 and as we've talked about, events could be a cadaver</p> <p>19 lab, they could be a preceptorship, they could be --</p> <p>20 an event could technically be a conference call with</p> <p>21 five doctors and this document could have been</p> <p>22 referred to and used on that conference call.</p> <p>23 So over the span of time since this has been</p> <p>24 out and the amount of training events that have</p> <p>25 happened, I don't -- I don't know who would have</p>	<p>1 something that's copy approved used 200 times? Do</p> <p>2 you keep track one way or the other?</p> <p>3 MR. COMBS: Object to the form.</p> <p>4 A. You need to check with our copy</p> <p>5 review department, if they have that.</p> <p>6 Q. Okay.</p> <p>7 (Deposition Exhibit No. T767, slide deck</p> <p>8 Procedural Pearls &amp; Frequently Asked Questions</p> <p>9 ETH.MESH.07396541 to 07396546 marked Confidential</p> <p>10 Subject to Stipulation and Order for</p> <p>11 confidentiality, was marked for identification.)</p> <p>12 MS. WILSON: Okay. The next exhibit</p> <p>13 is 767 and it's Bates No. 07396541. And it's</p> <p>14 called, "Procedural Pearls and Frequently Asked</p> <p>15 Questions."</p> <p>16 Q. Mr. Pattyson, do you recognize this</p> <p>17 document?</p> <p>18 A. Vaguely. We had a lot of documents</p> <p>19 that were FAQ like and I'm trying to remember this</p> <p>20 from Secur.</p> <p>21 Q. Do you know in any way dispute</p> <p>22 whether or not it's a Professional Education</p> <p>23 document used by your division?</p> <p>24 A. Well, I don't know that it was -- not</p> <p>25 a Professional Education document. I don't know if</p>
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<p>1 that exact number.</p> <p>2 Q. Alright. Do you keep some sort of</p> <p>3 record or documentation on what Professional Ed</p> <p>4 materials get used at the various events?</p> <p>5 A. Could you repeat that question,</p> <p>6 please?</p> <p>7 Q. Yeah. Does Professional Ed or any</p> <p>8 other department, to the best of your knowledge,</p> <p>9 based upon your seven years working within</p> <p>10 Professional Ed, do you all keep a record of what</p> <p>11 materials are used at the various events? You know,</p> <p>12 what materials did you use at the Washington event,</p> <p>13 what got used in Chicago?</p> <p>14 A. Yeah, like I just said, there's a lot</p> <p>15 of events. So I know that in our department there</p> <p>16 was not a system that -- I'm not aware of a system</p> <p>17 that tracked exactly what copy reviewed deck was</p> <p>18 used at each event, no.</p> <p>19 Q. Alright.</p> <p>20 (There is a discussion off the record.)</p> <p>21 Q. And do you guys have any tracking</p> <p>22 system of copy approved materials, so you got</p> <p>23 something that's copy approved, as to whether it</p> <p>24 gets used, so you could have something that's copy</p> <p>25 approved that's never used or you could have</p>	<p>1 this was a document that was used in Professional</p> <p>2 Education, but...</p> <p>3 Q. Well, I'll represent to you that it's</p> <p>4 identified --</p> <p>5 A. Oh, it says "for internal use only."</p> <p>6 So my guess would be, no, this was not used for</p> <p>7 Professional Education events.</p> <p>8 Q. Well, I'll represent that it was on</p> <p>9 the index as being identified as being used as a</p> <p>10 Professional Ed material.</p> <p>11 A. Okay.</p> <p>12 Q. Do you recall whether or not you used</p> <p>13 that with any of your preceptors or preceptees?</p> <p>14 A. No.</p> <p>15 Q. Okay. And let me ask you something.</p> <p>16 It says here on the top under Q1, "We have spoken to</p> <p>17 many physicians about this and they agree they were</p> <p>18 rocking it back and forth." They're talking about</p> <p>19 why it difficult to get the inserter off at the end</p> <p>20 of the procedure. You were getting feedback from</p> <p>21 your doctors.</p> <p>22 Did you have any conversations with doctors</p> <p>23 about this?</p> <p>24 A. Specifically, about rocking back and</p> <p>25 forth and stopping the initial position?</p>



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<p>1 Q. Yes, sir.</p> <p>2 A. Yes, I overheard and was privy to</p> <p>3 many conversations about the techniques used with</p> <p>4 Secur and releasing the device.</p> <p>5 Q. Okay. So you're saying you don't</p> <p>6 know -- well, you're saying you don't think this was</p> <p>7 used during Professional Education events; is that</p> <p>8 right?</p> <p>9 A. I don't recall this document. And it</p> <p>10 says "internal use only." So, "do not distribute,"</p> <p>11 at the top and at the bottom, so I got to believe</p> <p>12 this may not have been used in a Prof Ed event.</p> <p>13 Q. Would this not have been very</p> <p>14 important information to have gotten to physicians?</p> <p>15 A. I don't determine what information is</p> <p>16 put on content that's put to physicians.</p> <p>17 Q. Who determines that?</p> <p>18 A. Typically, it's surgeons giving input</p> <p>19 on clinical procedural information. That's medical</p> <p>20 affairs.</p> <p>21 Q. Who in medical affairs?</p> <p>22 A. We've had various medical affairs</p> <p>23 directors.</p> <p>24 MS. WILSON: Okay. The next one is</p> <p>25 Exhibit 768. It's called, "The Gynecare TVT-Secur</p>	<p>1 the sales rep were seeing to because there was other</p> <p>2 content. So it's a few years back and a lot of</p> <p>3 content so...</p> <p>4 Q. Well, can you tell the ladies and</p> <p>5 gentlemen of the jury who in your company could come</p> <p>6 and testify and tell us, specifically, what</p> <p>7 Professional Ed materials were used at the events or</p> <p>8 just what Professional Ed materials will take this</p> <p>9 exhibit, for example, what time period it was used?</p> <p>10 Is there anyone within Professional Ed that could</p> <p>11 tell us that?</p> <p>12 A. That's a good question. We've had</p> <p>13 Prof Ed for many years. But relative to Secur and</p> <p>14 the time that I was there, I can't tell you who is</p> <p>15 the best person to tell what you was used at what</p> <p>16 event specific to this device -- I'm sorry, to this</p> <p>17 document or others. You know, we had decks. There</p> <p>18 was many materials we had, so I don't know who is</p> <p>19 the best person to tell you, to answer your</p> <p>20 question.</p> <p>21 Q. So you can't tell me the time period</p> <p>22 that this Gynecare TVT-Secur Key Technical Points,</p> <p>23 the time period in which it was used?</p> <p>24 A. Again, I don't -- I'm not certain</p> <p>25 that this was used and, no, I can't tell you the</p>
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<p>1 Key Technical Points."</p> <p>2 (Deposition Exhibit No. T768, slide deck</p> <p>3 Gynecare TVT-Secur Key Technical Points (Procedural</p> <p>4 Pearls) ETH.MESH.01000449 to 01000457 marked Highly</p> <p>5 Confidential Subject to Stipulation and Order of</p> <p>6 Confidentiality, was marked for identification.)</p> <p>7 MS. WILSON: Here you go, Phil.</p> <p>8 MR. COMBS: Thank you.</p> <p>9 Q. And I'm going to ask you -- this is</p> <p>10 Bates No. 01000449.</p> <p>11 Do you recognize this document?</p> <p>12 A. It's tough to see with the black and</p> <p>13 white, some of the pictures, sometimes the colors</p> <p>14 help me identify documents on the pages. This looks</p> <p>15 like content relative to Secur, that's for sure.</p> <p>16 But I don't know if this was used in Prof Ed events.</p> <p>17 Q. I mean, as the Prof Ed manager and</p> <p>18 then subsequently worldwide director, did you have a</p> <p>19 lot of contact with the professional Ed materials?</p> <p>20 A. Content in that just as I did as a</p> <p>21 sales representative, you see a lot of content over</p> <p>22 the years. And I saw a lot of content at the time</p> <p>23 as a sales representative with brochures and DVD's</p> <p>24 and alike. And, in Prof Ed, I saw plenty of</p> <p>25 material similar to this. And I was purview to what</p>	<p>1 time period. But that wasn't my job either to track</p> <p>2 the timing of our documents that we present.</p> <p>3 Q. Did someone have that job?</p> <p>4 A. Possibly. That's not my area of</p> <p>5 expertise. I must be honest with you. We had a</p> <p>6 copy approval department that managed content.</p> <p>7 Q. Okay. Alright.</p> <p>8 A. I didn't need to know that, quite</p> <p>9 honestly.</p> <p>10 MS. WILSON: Alright. I only have</p> <p>11 one copy of the next one, I'm sorry.</p> <p>12 The next one is "TVT-Secur Professional</p> <p>13 Education Presentation," Bates No. is 00370392. So</p> <p>14 it looks like the date would have been August 22nd,</p> <p>15 2007. And we're going to make it Exhibit 769.</p> <p>16 (Deposition Exhibit No. T769, slide deck</p> <p>17 Gynecare TVT Secur*System Early Surgical Experience</p> <p>18 ETH.MESH.00370392, was marked for identification.)</p> <p>19 MS. WILSON: Do you want to stop and</p> <p>20 make a copy?</p> <p>21 MR. COMBS: Let me...</p> <p>22 I'll try to use it with the witness and it</p> <p>23 becomes apparent that we need to stop and make a</p> <p>24 copy, we'll do that.</p> <p>25 MS. WILSON: And I think the key</p>

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<p>1 technical points is taken out of turn. I think that</p> <p>2 should have been the fourth Prof Ed material</p> <p>3 identified and I think this one I handed you would</p> <p>4 have been the third one, so...</p> <p>5 Q. Yeah. So the last exhibit, the date</p> <p>6 on that would have been April 18th, 2007, and the</p> <p>7 one I just handed you, I think, is August 22nd,</p> <p>8 2007.</p> <p>9 So I'm going to ask you, do you recognize</p> <p>10 that Professional Ed material?</p> <p>11 A. Yeah, this I think I've seen this</p> <p>12 deck before, yes.</p> <p>13 Q. Okay. Do you know whether or not it</p> <p>14 was used at Professional Ed events?</p> <p>15 A. It looks like something that might</p> <p>16 have been used, from just perusing it, yes.</p> <p>17 Q. Do you know the timeframe in which it</p> <p>18 was used?</p> <p>19 A. By looking at it, I don't see any</p> <p>20 indication of when it was used, no.</p> <p>21 Q. Okay. And, again, you don't know who</p> <p>22 could tell me the timeframe in which it was used at</p> <p>23 the company?</p> <p>24 A. No, I'm afraid I can't.</p> <p>25 Q. And you didn't have anything to do</p>	<p>1 recall a pilot program with Medtronic, but that's</p> <p>2 literally all I recall from what it was. I don't</p> <p>3 recall being involved in it. I do recall hearing</p> <p>4 something about a pilot we did with Medtronic, yes.</p> <p>5 Q. And, as soon as we get that printed,</p> <p>6 I'll show it to you and give you an opportunity to</p> <p>7 look at it.</p> <p>8 A. Okay.</p> <p>9 MR. COMBS: Is that going to be 770?</p> <p>10 MS. WILSON: Yes, it will be. So</p> <p>11 let's -- yes, it sure will be. So let's mark that.</p> <p>12 I'll put that there for now.</p> <p>13 Okay. So moving onto the next one, it's</p> <p>14 going to be 771. And it's Bates No. 04181833 and</p> <p>15 the copy approval date is February 6th, 2008. And</p> <p>16 the title of The Professional Ed slide deck is</p> <p>17 "Treatment of Stress Urinary Incontinence with</p> <p>18 Gynecare TVT-Secur System."</p> <p>19 There you go, Phil.</p> <p>20 (Deposition Exhibit No. T771, slide deck</p> <p>21 Treatment of Stress Urinary Incontinence with</p> <p>22 Gynecare-TVT Secur System ETH.MESH.04181833, was</p> <p>23 marked for identification.)</p> <p>24 Q. So do you recognize this Prof Ed</p> <p>25 material?</p>
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<p>1 with creating the substance of that exhibit?</p> <p>2 A. No.</p> <p>3 MS. WILSON: Okay. Let's go off the</p> <p>4 record for just a second.</p> <p>5 THE VIDEOGRAPHER: The time is now</p> <p>6 2:06. We're going off the record.</p> <p>7 (There is a discussion off the record.)</p> <p>8 THE VIDEOGRAPHER: The time is now</p> <p>9 2:08. We are back on the record.</p> <p>10 (Deposition Exhibit No. T770, slide deck</p> <p>11 TVT-Secur Professional Education Program for</p> <p>12 Medtronic/WEHU Prof Ed Pilot Program</p> <p>13 ETH.MESH.05320911, was marked for identification.)</p> <p>14 MS. WILSON: Okay. The next one is</p> <p>15 called, "TVT-Secur Professional Education Program</p> <p>16 for Medtronic/WEHU Prof Ed Pilot Program." Okay.</p> <p>17 The Bates No. Is 05320911 and it looks like the copy</p> <p>18 approval date is -- yeah, is August 22nd, 2007.</p> <p>19 We're getting that one, okay. We don't have it</p> <p>20 printed out.</p> <p>21 A. Okay.</p> <p>22 Q. But I'm just asking you right now, do</p> <p>23 you recognize that Prof Ed material just by its</p> <p>24 title?</p> <p>25 A. Yeah, the name Medtronic -- I briefly</p>	<p>1 A. Yeah, I didn't see it on the list</p> <p>2 here. Is it on the list?</p> <p>3 Q. Yes, sir, it sure is. I've got the</p> <p>4 old list. Where is the updated one?</p> <p>5 It's the sixth item, I think, for TVT-S Prof</p> <p>6 Ed and it's Bates No. 04181833.</p> <p>7 (There is a discussion off the record.)</p> <p>8 MS. WILSON: I'm looking for the new</p> <p>9 index one.</p> <p>10 MR. COMBS: Which number was it on</p> <p>11 the old index?</p> <p>12 MS. WILSON: And, on the old one, on</p> <p>13 the old index, it is No. 21. But, on the new one,</p> <p>14 it is -- it looks like it's taken off the new one.</p> <p>15 MR. COMBS: Okay. It's not 21 on the</p> <p>16 old one.</p> <p>17 MS. WILSON: Yeah, it is. It most</p> <p>18 certainly is 21, 04181833.</p> <p>19 MR. COMBS: Okay.</p> <p>20 MS. WILSON: So it's on the old one,</p> <p>21 June 4th. And it has from what I see disappeared</p> <p>22 from the updated one.</p> <p>23 Q. Do you recognize it?</p> <p>24 A. I do because per the last deck we</p> <p>25 just saw, there are a lot of similar slides. So it</p>

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<p>1 looks very similar to content we may have presented</p> <p>2 at a Prof Ed event, yes.</p> <p>3 MS. WILSON: Alright. Okay. The</p> <p>4 next one is combined TVT Prof Ed slide deck on the</p> <p>5 June 4th index, it's No. 23 and on the new one it is</p> <p>6 -- looks like it's 36. And I think that's one we</p> <p>7 have to print out, okay.</p> <p>8 Q. So do you recognize just by its name,</p> <p>9 combined TVT Prof Ed, you're not going to, are you,</p> <p>10 just by its name?</p> <p>11 A. I've seen a deck named that, yes.</p> <p>12 Q. Okay.</p> <p>13 A. Whether it was used in Prof Ed or</p> <p>14 not, I can't speak to. But it says Prof Ed slide</p> <p>15 deck so --</p> <p>16 MS. WILSON: We're going to table</p> <p>17 that one and we're going to label it at the end.</p> <p>18 Okay. So let's keep going.</p> <p>19 MR. COMBS: Is that 772?</p> <p>20 MS. WILSON: Yeah, it's going to be</p> <p>21 772. Okay, table that.</p> <p>22 (Deposition Exhibit No. T772, slide deck</p> <p>23 Treatment of Stress Urinary Incontinence with the</p> <p>24 Gynecare TVT Family of Products ETH.MESH.00369995,</p> <p>25 was marked for identification.)</p>	<p>1 MS. WILSON: Okay. Alright. Let's</p> <p>2 move on to the next one.</p> <p>3 "The Science of What's Left Behind</p> <p>4 Presentation" and that's 03751819 and I believe that</p> <p>5 was introduced earlier as an exhibit.</p> <p>6 MR. THORNBURGH: Uh-huh.</p> <p>7 MS. WILSON: I don't know exactly</p> <p>8 what Exhibit No. It is. If we need to, I can do it</p> <p>9 again.</p> <p>10 MR. COMBS: I'll tell you in a</p> <p>11 second. It's 752.</p> <p>12 MS. WILSON: Seven?</p> <p>13 MR. COMBS: 752.</p> <p>14 (There is a discussion off the record.)</p> <p>15 Q. Take a look at that and do you</p> <p>16 recognize that document?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And was that used in</p> <p>19 Professional Education events?</p> <p>20 A. I believe it was.</p> <p>21 Q. Do you know the timeframe in which it</p> <p>22 was used?</p> <p>23 A. We talked about it before. I presume</p> <p>24 it was used -- actually, I don't remember what we</p> <p>25 said before. We're having a long day today and</p>
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<p>1 MS. WILSON: I'm sorry, I'm trying to</p> <p>2 keep us organized here.</p> <p>3 Okay. The next one is TVT-Secur Video and</p> <p>4 the Bates Nos. are 147507 through 09 and then the</p> <p>5 next one is 154831 through 53.</p> <p>6 Q. And when we went to get this in its</p> <p>7 native form, this is what came up. So I'm just --</p> <p>8 I'm going to show you this and you can tell me if</p> <p>9 you recognize it.</p> <p>10 (Deposition Exhibit No. T773, TVT-Secur</p> <p>11 Video document stamped Approved September 16, 2008</p> <p>12 Marketing Services ETH.MESH.00147507 to 00147509</p> <p>13 marked Highly Confidential Subject to Stipulation</p> <p>14 and Order of Confidentiality, was marked for</p> <p>15 identification.)</p> <p>16 Q. There you go. I don't know if it's</p> <p>17 audio from a video, but this is what got produced to</p> <p>18 us on Crovello (phonetic).</p> <p>19 Do you have any idea what this is?</p> <p>20 A. Not by what I am looking at, no.</p> <p>21 Q. And do you see at the top there</p> <p>22 approved September 16, 2008 marketing services?</p> <p>23 A. I do.</p> <p>24 Q. Who is marketing services?</p> <p>25 A. I'm not sure. Marketing services?</p>	<p>1 yesterday. I don't recall the exact timeframe we</p> <p>2 talked about it. It was probably in 2008 timeframe,</p> <p>3 if I'm not mistaken.</p> <p>4 Q. Did you ever stop using it for any</p> <p>5 reason?</p> <p>6 A. I don't recall stopping using this</p> <p>7 deck or anything related to cessation of it, no.</p> <p>8 MS. WILSON: Okay. The next one is</p> <p>9 "TVT-Secur Procedural Steps," and that's 01128679</p> <p>10 through 98.</p> <p>11 (Deposition Exhibit No. T774, Procedural</p> <p>12 Steps Gynecare TVT Secur System ETH.MESH.01128679 to</p> <p>13 01128698 marked Highly Confidential Subject to</p> <p>14 Stipulation and Order of Confidentiality, was marked</p> <p>15 for identification.)</p> <p>16 Q. The copy approval date was May 7th,</p> <p>17 2010.</p> <p>18 Do you recognize this Prof Ed piece?</p> <p>19 A. Yes, vaguely. I mean, without the</p> <p>20 color, again, it's tough in black and white. But I</p> <p>21 do recall seeing something like this.</p> <p>22 Q. Do you know the timeframe in which it</p> <p>23 was used?</p> <p>24 A. Obviously, during the launch or, you</p> <p>25 know, sometime during the launch of Secur, so I</p>

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<p>1 can't tell you exactly when this was available.</p> <p>2 Q. And, again, as for all of these, you</p> <p>3 did not contribute to the substance of this</p> <p>4 material?</p> <p>5 A. No.</p> <p>6 Q. How would you get the Professional Ed</p> <p>7 materials, like who did you physically get them</p> <p>8 from, how did you receive them?</p> <p>9 A. Over the span of time that I was in</p> <p>10 Prof Ed, there was a couple of ways. Sometimes, we</p> <p>11 would have a share drive like a folder, Intranet</p> <p>12 type folder, where we would -- one of our admins</p> <p>13 would put all the copy approved materials in that</p> <p>14 file procedure. Sometimes, we had a share point</p> <p>15 site, again, just another Intranet site used for</p> <p>16 placing that. Those are the most common ways I</p> <p>17 remember.</p> <p>18 Q. Okay. Would you be told by someone</p> <p>19 that the materials were there and you needed to go</p> <p>20 get them?</p> <p>21 A. Yeah, typically our manager would let</p> <p>22 us know, hey, there is a new deck or a colleague</p> <p>23 could say, hey, new deck has just been approved or</p> <p>24 something like that, whoever was maybe working on</p> <p>25 it, sure.</p>	<p>1 A. I thought so.</p> <p>2 MS. WILSON: Yeah, we did.</p> <p>3 Q. Okay. I think this was just in the</p> <p>4 wrong folder, so we're not going to mark this again.</p> <p>5 I think it's marked.</p> <p>6 Okay. I think that's the complete universe</p> <p>7 as of what we know from the last index that got</p> <p>8 produced to us of the Professional Ed materials.</p> <p>9 And I got to ask you this one more time.</p> <p>10 Do you recall anything else being used that</p> <p>11 we haven't gone over today for TVT-S?</p> <p>12 A. Anything --</p> <p>13 MR. COMBS: Let me just interrupt you</p> <p>14 for a second. I apologize. I got distracted for a</p> <p>15 minute. I just missed the question. Could you</p> <p>16 either repeat it or just have it read to us. I just</p> <p>17 literally missed it.</p> <p>18 Q. Yeah. Based on what's been produced</p> <p>19 to us today, what's been identified today based on</p> <p>20 the last index, this is the universe of the TVT-S</p> <p>21 materials? And I realize that you could find more,</p> <p>22 but this is what we know today.</p> <p>23 And I just want to make sure, do you know of</p> <p>24 any that's not on the most updated index that's</p> <p>25 before you, do you know of any other TVT-S</p>
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<p>1 Q. Okay. Let's see. Okay. I want to</p> <p>2 back up and talk about -- it's the TVT-Secur video</p> <p>3 again. The stuff that you said you couldn't</p> <p>4 recognize, it looked like a script of maybe audio.</p> <p>5 A. Yes.</p> <p>6 MS. WILSON: Okay. Also, part of</p> <p>7 that is Bates No. 00154831 and it looks like some</p> <p>8 diagrams. I'm going to make that a separate exhibit</p> <p>9 and that's going to be 775. I know I went out of</p> <p>10 order a little bit. But the copy approval date is</p> <p>11 September 3rd, 2008.</p> <p>12 (Deposition Exhibit No. T775 *****MARKED</p> <p>13 BUT NOT USED*****)</p> <p>14 Q. I'm going to ask you if you recognize</p> <p>15 that?</p> <p>16 A. This looks like our IFU for</p> <p>17 TVT-Secur.</p> <p>18 Q. Let me see.</p> <p>19 A. (The witness complies.)</p> <p>20 MR. COMBS: Did --</p> <p>21 MS. WILSON: Oh, you're absolutely</p> <p>22 right.</p> <p>23 MR. COMBS: Did we mark that?</p> <p>24 MS. WILSON: We did mark the IFU at</p> <p>25 the beginning.</p>	<p>1 Professional Ed materials?</p> <p>2 A. I've seen a lot of materials here</p> <p>3 today. It would be tough for me to say there's</p> <p>4 anything else that I'm not recalling. But this</p> <p>5 looks like the content that we would have used. So</p> <p>6 I cannot think of anything else at this moment. I</p> <p>7 can't see the DVD, obviously, from this transcript.</p> <p>8 I do recall having a DVD, Secur DVD. That's -- this</p> <p>9 is -- as far as the universe, I can't imagine</p> <p>10 there's not Secur content in any other deck that</p> <p>11 could have been referred to in any, way shape or</p> <p>12 form used at a training event. That might be the</p> <p>13 case.</p> <p>14 Q. Okay. How would these materials get</p> <p>15 updated, who would decide to update these materials?</p> <p>16 A. It could have been most likely</p> <p>17 surgeons at the events since they're teaching,</p> <p>18 they're probably the closest to the material,</p> <p>19 medical affairs could also or regulatory, if there's</p> <p>20 a labeling change or something like that, we need to</p> <p>21 update materials.</p> <p>22 Q. Did you ever ask for these materials</p> <p>23 to be updated based upon your communications with</p> <p>24 either the preceptors or preceptees worldwide that</p> <p>25 you communicated with?</p>

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<p>1 A. Did I ever request for them to be 2 updated? 3 Q. Yes, sir. 4 Did you ever see the need for them to be 5 updated and did you request that they get updated? 6 A. Not that I recall, not anything -- 7 not that I recall. 8 Q. Okay. We're going to go through some 9 other exhibits here. 10 (There is a discussion off the record.) 11 (Deposition Exhibit No. T776, slide deck 12 Gynecare Prolift 2008 Gynecare Prolift Pelvic Floor 13 Repair System and TVT Secur Mid-urethral Sling 14 Preceptorship St. Lukes Hospital Allentown PA with 15 Bates handwritten 00813007, was marked for 16 identification.) 17 Q. I'm handing you what we marked, I 18 think, it's 776. And it's Bates No. 00813007 and it 19 looks like it's an advertisement for a Prof Ed event 20 where Dr. -- is it Lucente? 21 A. That's correct. 22 Q. (Continuing.) Is the faculty and we 23 talked a lot about Dr. Lucente. And he was supposed 24 to discuss at this event Gynecare Prolift, but it 25 says also TVT-Secur midurethral sling. Do you</p>	<p>1 approved content for Prolift and for Secur. 2 Q. Okay. But out of what we went 3 through just now, you don't know what Dr. Lucente 4 would have used? 5 A. We've seen a number of decks and 6 there is a number listed here. So I don't recall 7 exactly which deck was used in this case. 8 Q. And now on some of the decks that we 9 used, did Dr. Lucente come up with the substance of 10 the materials for the TVT-Secur? 11 MR. COMBS: Object to form. 12 A. Yeah, could you please restate the 13 question? 14 Q. Out of the materials that we looked 15 at today, did Dr. Lucente substantively come up with 16 the material -- the substance of the material that 17 was used? 18 MR. COMBS: Same objection. 19 Q. Some of the decks? 20 A. Yes, he had -- my understanding is 21 that Dr. Lucente did contribute to content, medical 22 content, specifically, in Prof Ed materials. Which 23 ones I can't speak to, but I'm pretty sure he did 24 assist, yes. 25 Q. And who would have that information</p>
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<p>1 see that? 2 A. No, sorry. Where are you looking? 3 Q. At the very front page. 4 A. Okay, yes. 5 Q. At this point in time, do you know 6 whether or not Dr. Lucente had used the TVT-Secur 7 system? 8 A. 2008 I would presume so, if he was 9 speaking at the device or speaking at the course, 10 yes. 11 Q. Okay. And within this material it 12 says on still the front page, "Research has shown 13 that in order to gain full advantage from this 14 training session, we recommend scheduling, at least, 15 two to three procedures within 30 days of training." 16 A. Yes, I see that. 17 Q. Okay. And was that pertaining to the 18 Prolift and the TVT-Secur system? 19 A. That's not what I see here. I 20 believe this paragraph is talking about Gynecare 21 Prolift. 22 Q. Do you have any idea as to what the 23 TVT-Secur Prof Ed material would have been that Dr. 24 Lucente used during this presentation? 25 A. I imagine it would have been our copy</p>	<p>1 as to which one he assisted with? 2 A. Well, I know he was the clinical 3 investigator for Prolift and don't quote me because 4 I wasn't in clinical. I do forget sometimes which 5 of these doctors -- I don't want to speak out of 6 turn. He may have acted in an early clinical state 7 with some our products like TVT-O or TVT-Secur as 8 well. So he may have had involvement in some of 9 that content, yes. 10 Q. Okay. Alright. 11 A. He was also the first to have 12 clinical experience with a lot of these products so 13 -- in the US, so... 14 (Deposition Exhibit No. T777, e-mail string 15 ETH.MESH.00819603 &amp; 00819604 marked Highly 16 Confidential Subject to Stipulation and Order of 17 Confidentiality, was marked for identification.) 18 Q. And I'm going to hand you what we're 19 marking as Exhibit 777 and it's Bates No. 00819703 20 and the date -- this is an e-mail. It's dated 21 August 7th, 2006, and it's from Paul Parisi -- 22 A. Uh-huh. 23 Q. -- to you, and a lot of other people 24 and it's about TVT-Secur webcasts. Do you see that? 25 A. Yes.</p>

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<p>1 Q. And can you read that e-mail to, me?</p> <p>2 A. Sure. Where would you like me to</p> <p>3 start?</p> <p>4 Q. In the beginning.</p> <p>5 A. The very beginning of the trail or...</p> <p>6 Q. No. "I spoke with Dharini."</p> <p>7 A. Oh. "I spoke with Dharini and the</p> <p>8 TVT-Secur launch team this a.m. She's been getting</p> <p>9 a lot of requests to 'turn on' accounts to sell the</p> <p>10 product to high volume competitive docs who believe</p> <p>11 they can do the procedure without going to training.</p> <p>12 We've agreed at this point and we are still going to</p> <p>13 require training. However, what he would like us to</p> <p>14 provide an alternative in late August early</p> <p>15 September timeframe for web based training."</p> <p>16 Q. Okay. "And we've agreed at this</p> <p>17 point that we're still going to require training,</p> <p>18 okay, what kind of training, specifically, were you</p> <p>19 requiring and of who?</p> <p>20 MR. COMBS: Object to form.</p> <p>21 A. I'm sorry, and what?</p> <p>22 Q. What kind of training were you</p> <p>23 requiring as of this date and of whom were you</p> <p>24 requiring the training?</p> <p>25 A. I don't -- I'm trying to recall the</p>	<p>1 Q. And did you in late August or early</p> <p>2 September timeframe offer the web based training for</p> <p>3 the high volume competitive docs?</p> <p>4 A. We did offer webcast training, yes.</p> <p>5 Q. What's a high volume competitive doc?</p> <p>6 A. I imagine it's doctors that are using</p> <p>7 competitive procedures and doing them a lot.</p> <p>8 Q. Okay. Going back to this, the</p> <p>9 require part of the e-mail, what were the</p> <p>10 requirements and how -- I mean, how did you require</p> <p>11 docs to receive training?</p> <p>12 A. We actually don't. My understanding</p> <p>13 is we don't require training. We highly encourage</p> <p>14 it. So I don't know if Paul spoke out of turn. I</p> <p>15 know we strongly encourage it. So you would have to</p> <p>16 ask him why he put require training because my</p> <p>17 understanding is we can't force a doctor to go to</p> <p>18 training.</p> <p>19 Q. Why would you want to require</p> <p>20 training?</p> <p>21 A. I didn't say that I would want to</p> <p>22 require training.</p> <p>23 Q. I'm saying why would you or why would</p> <p>24 you guys in Professional Ed require training?</p> <p>25 MR. COMBS: Object to the form.</p>
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<p>1 context of this e-mail. And I think you need to</p> <p>2 check with Paul Parisi on this.</p> <p>3 Q. You don't remember anything about</p> <p>4 this?</p> <p>5 A. I'm trying to refresh my memory by</p> <p>6 looking at this. Turning on accounts...</p> <p>7 I don't know exactly what -- well, actually,</p> <p>8 could you restate the question so I make sure I'm</p> <p>9 answering it?</p> <p>10 Q. What kind of training were you</p> <p>11 requiring and of whom? That's it. That's the</p> <p>12 question.</p> <p>13 A. What type of training?</p> <p>14 MR. COMBS: Object to the form.</p> <p>15 A. I would imagine all the type of</p> <p>16 training that we always offer for our preceptors is</p> <p>17 webcasts, live training, cadaver, preceptorships,</p> <p>18 all of those types of events.</p> <p>19 Q. Okay. And is the training for the</p> <p>20 preceptors or preceptees?</p> <p>21 A. It doesn't say in this e-mail.</p> <p>22 Q. Okay. Do you know, do you know?</p> <p>23 A. Based on this e-mail what they're</p> <p>24 referring to, no I don't. We offer training to all</p> <p>25 customers both contracted faculty and preceptees.</p>	<p>1 A. I don't think that we do require</p> <p>2 training.</p> <p>3 Q. And you don't know why Mr. Parisi</p> <p>4 would have put that in there?</p> <p>5 MR. COMBS: Asked and answered.</p> <p>6 A. No.</p> <p>7 Q. Do you know whether or not you</p> <p>8 followed up with him after you received this e-mail?</p> <p>9 A. No, I don't recall following up with</p> <p>10 him, no. He didn't ask for a follow-up nor do I</p> <p>11 remember what -- there was not really an ask here</p> <p>12 that I've read.</p> <p>13 Q. No, I'm saying, if you would have got</p> <p>14 this e-mail and thought that you did not require</p> <p>15 training, would you have followed up with him and</p> <p>16 said something about, I thought we didn't require</p> <p>17 training?</p> <p>18 A. As I stated previously yesterday and</p> <p>19 today, it has never been my understanding in my</p> <p>20 entire tenure with the company, especially, in Prof</p> <p>21 Ed that we require training. In fact, I think we</p> <p>22 looked at a document where I stated we do not</p> <p>23 require training.</p> <p>24 So you would have to ask Paul why he wrote</p> <p>25 require training. I know that sometimes people</p>



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<p>1 confuse it because we think it's very important.  2 And so often customers would ask us and say, don't  3 we to have to go to training?  4 And I say, well, I can't make you go to  5 training, but we highly encourage you to go to  6 training. We think it's only going to benefit you.  7 What you ultimately decide, doctor, it's your  8 prerogative.  9 Q. Especially, if a product has a steep  10 learning curve, right, training would be very  11 important?  12 A. Anything that I'm aware of in surgery  13 has a learning curve. So, yeah, I think training is  14 -- yeah, that's why they go to medical school and  15 residency and they do their training.  16 MS. WILSON: Okay. This is  17 Exhibit 778 and it's Bates No. 00819622.  18 (Deposition Exhibit No. T778, e-mail string  19 and attachment ETH.MESH.00819622 to 00819627 marked  20 Highly Confidential Subject to Stipulation and Order  21 of Confidentiality, was marked for identification.)  22 Q. Take a moment and read over that.  23 (There is a discussion off the record.)  24 Q. Now, who is Dharini Amin?  25 A. Dharini Amin is -- she's had multiple</p>	<p>1 wanted to send out to everyone some of the questions  2 that did come up in the call and some of the answers  3 that were given as well as some pearls that we found  4 that may be helpful from the preceptors." Do you  5 see that?  6 A. I do.  7 Q. Alright. So the Prof Ed material we  8 talked about this morning, it looks like that was  9 something that was used to train the preceptors.  10 MR. COMBS: Object to the form.  11 Q. Do you know?  12 A. I have no idea that the pearls  13 referenced in this sentence are the same as the  14 procedural pearls that you are referring to in the  15 previous document, no.  16 Q. You don't know one way or the other?  17 A. No.  18 Q. Okay. Would a Prof Ed material also  19 be considered something that you would use to train  20 the preceptors; is that --  21 A. Absolutely.  22 Q. Okay. Okay. I'm going to hand you  23 --  24 MS. WILSON: This is going to be  25 Exhibit 779 and it's Bates No -- it's going to be</p>
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<p>1 roles in the company or, at least, more than two, to  2 my knowledge. She used to work in marketing at the  3 time, I believe. Don't quote me on her timeframe.  4 She works in contracting now.  5 Q. And remember earlier we identified in  6 the Professional Ed materials some of the, I think,  7 it's called the pearls, remember that?  8 A. I notice a document that spoke to the  9 procedural pearls, yes.  10 Q. Is this what she's referring to in  11 this e-mail and you didn't think it was ever used as  12 -- in a Professional Ed event?  13 MR. COMBS: Object to the form.  14 A. I don't recall which document had the  15 procedural pearls. Was that just a moment ago?  16 Q. Yeah. Earlier you said you didn't  17 think that it was ever used.  18 A. Uh-huh.  19 Q. Okay. So, as you read this e-mail,  20 what I'm wanting to know, do you know is this what  21 she's talking about in this e-mail?  22 A. Can you direct me -- I'm sorry.  23 Yeah, I don't see where you're referring to.  24 Q. Preceptors and then if you go down to  25 second to the last sentence in this e-mail, "So I</p>	<p>1 two documents but -- we'll make it two exhibits.  2 00134498 is an e-mail from a Dr. Dennis Miller to  3 Paul Parisi, among other people.  4 (Deposition Exhibit No. T779, e-mail string  5 ETH.MESH.00134498 &amp; 00134499 marked Highly  6 Confidential Subject to Stipulation and Order of  7 confidentiality, was marked for identification.)  8 MS. WILSON: And then another exhibit  9 we're marking, it's going to be Exhibit 780 and it's  10 Worldwide Complaint Reporting Statement and it's  11 from the MAUDE database.  12 (Exhibit T780 not marked as stated above.)  13 Q. I'm going to hand you these together,  14 actually.  15 MS. WILSON: And I'm sorry. I only  16 have one copy.  17 MR. COMBS: Well, I just want to ask.  18 This was attached to what you gave me that was 778.  19 So was this a part of 778 or inadvertently did you  20 give me a double document?  21 MS. WILSON: It could have been  22 inadvertently, yeah, yeah. If there is two,  23 actually, you can keep it, okay, and give me one  24 back.  25 A. I think I have that same one in mine,</p>

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<p>1 too.</p> <p>2 MR. THORNBURGH: 778 may refer to</p> <p>3 that as an attachment.</p> <p>4 MS. WILSON: That's right. Keep it</p> <p>5 together.</p> <p>6 Q. So I'm asking you questions about</p> <p>7 these together, alright.</p> <p>8 A. Yeah, he, obviously, needs one.</p> <p>9 Q. Go ahead, take a look at them.</p> <p>10 MS. WILSON: I think you have one of</p> <p>11 my copies, Phil. Is there an extra one?</p> <p>12 A. This is it, I think. 780 -- oh, no,</p> <p>13 779 and 80?</p> <p>14 Q. Okay, that's fine.</p> <p>15 MR. COMBS: I have two of this.</p> <p>16 MS. WILSON: Yeah, I just need one</p> <p>17 back.</p> <p>18 MR. COMBS: And then this is 779?</p> <p>19 MS. WILSON: No. That was introduced</p> <p>20 earlier.</p> <p>21 MR. COMBS: This -- okay. Let's stop</p> <p>22 just for a second.</p> <p>23 Bart, can you hand me what you have as 778.</p> <p>24 Okay. On the copy that Bart has, the one</p> <p>25 that was the official marked copy --</p>	<p>1 record.</p> <p>2 (Recess taken 2:47 to 2:55 p.m.)</p> <p>3 THE VIDEOGRAPHER: The time is now</p> <p>4 2:55. This is the beginning of Disk No. 5. We are</p> <p>5 back on the record.</p> <p>6 Q. Okay. Just to be clear, we're</p> <p>7 talking about Exhibit 778.</p> <p>8 A. Okay.</p> <p>9 Q. And it is an e-mail dated</p> <p>10 October 6th, 2006 from Dharini Amin and the Bates</p> <p>11 No. is 00819622 is the front page. The last page of</p> <p>12 this exhibit is Bates No. 00819627.</p> <p>13 A. Okay. Yes, that's what I'm looking</p> <p>14 at, that's correct.</p> <p>15 Q. Have you had an opportunity to review</p> <p>16 this exhibit?</p> <p>17 A. Just in the few moments you just</p> <p>18 handed it to me, yes.</p> <p>19 Q. Okay.</p> <p>20 A. Briefly.</p> <p>21 Q. And, again, tell me because I've</p> <p>22 honestly forgotten. I'm not trying to repeat the</p> <p>23 question. Who is Dharini Amin?</p> <p>24 A. Oh, she was, if you look in the</p> <p>25 document, product director of continence health at</p>
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<p>1 MS. WILSON: Okay.</p> <p>2 MR. COMBS: -- it has -- it's the</p> <p>3 same thing that you handed to me. It's got what you</p> <p>4 just marked as 780 stuck to it, two copies.</p> <p>5 MR. THORNBURGH: Right, that's the</p> <p>6 full document.</p> <p>7 MS. WILSON: Okay.</p> <p>8 MR. THORNBURGH: Those documents</p> <p>9 were --</p> <p>10 MR. COMBS: It's got this at the end</p> <p>11 of it, too.</p> <p>12 MR. THORNBURGH: That's right.</p> <p>13 MS. WILSON: Okay. That's the full</p> <p>14 document.</p> <p>15 MR. COMBS: Okay.</p> <p>16 MR. THORNBURGH: Why don't you break</p> <p>17 down and use the complication data, that's fine.</p> <p>18 MS. WILSON: I want to use it however</p> <p>19 it's simplest.</p> <p>20 MR. COMBS: Here is what I would just</p> <p>21 -- I mean, let's go off the record for a second.</p> <p>22 MS. WILSON: Yeah.</p> <p>23 (There is a discussion off the record.)</p> <p>24 THE VIDEOGRAPHER: The time is 2:47.</p> <p>25 This is the end of Disk No. 4. We're going off the</p>	<p>1 the time of this -- it looks at the time of this</p> <p>2 e-mail.</p> <p>3 Q. And is she someone that you dealt</p> <p>4 with as Professional Education manager or worldwide</p> <p>5 director? At this time you were Professional</p> <p>6 Education manager.</p> <p>7 A. Yes, I had dealings with her on</p> <p>8 occasion, yeah.</p> <p>9 Q. Okay. And I noticed that Dr. Lucente</p> <p>10 is on this e-mail. Why would he have been on this</p> <p>11 e-mail?</p> <p>12 A. Well, this to me looks like a</p> <p>13 communication from her to a group of preceptors.</p> <p>14 Q. Okay. And preceptors is something --</p> <p>15 they are the doctors that Professional Education</p> <p>16 deals with all the time, right?</p> <p>17 A. That is correct.</p> <p>18 Q. You work with the preceptors, okay.</p> <p>19 And she is talking to them about some</p> <p>20 problems that preceptees are having and some</p> <p>21 questions that preceptees are having and how the</p> <p>22 preceptors are to deal with that. Do you agree</p> <p>23 that's what's going on?</p> <p>24 MR. COMBS: Object to the form.</p> <p>25 A. No, I haven't read through this</p>

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<p>1 e-mail nor do I know what Dharini is referring to</p> <p>2 with this communication yet.</p> <p>3 Q. Okay. Well, I asked you to read</p> <p>4 through the e-mail. I want you to.</p> <p>5 A. For the past few minutes, we've been</p> <p>6 passing this particular document back and forth. So</p> <p>7 I haven't really fully read through the document.</p> <p>8 Q. Okay. Well, the first paragraph is,</p> <p>9 "Dear Preceptors, First of all, thank you to those</p> <p>10 who were able to join the call on Friday. I</p> <p>11 understand that it is very hard to find the time</p> <p>12 that works to everyone. So I wanted to send to</p> <p>13 everyone some of the questions that did come up in</p> <p>14 the call and some of the answers that were given, as</p> <p>15 well as some pearls that we found that may be</p> <p>16 helpful from preceptors."</p> <p>17 And then she talks about an attached PDF,</p> <p>18 finds those answers in pearls. And that would be</p> <p>19 Bates No. Document 00819627, which is the last</p> <p>20 e-mail. Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Now, based upon your</p> <p>23 knowledge, were these some of the issues that</p> <p>24 preceptees and customer physicians were having with</p> <p>25 the implantation of the TVT-S?</p>	<p>1 Q. Okay. And this is a document that</p> <p>2 you looked at earlier?</p> <p>3 A. Is this the one?</p> <p>4 Q. Uh-huh.</p> <p>5 A. I don't recall this one, in</p> <p>6 particular, because it's listed some complaints here</p> <p>7 by name and it has urethra, bladder and vagina</p> <p>8 listed there. So I don't recognize this one at the</p> <p>9 moment from earlier.</p> <p>10 Q. Are these reported complications from</p> <p>11 the MAUDE database?</p> <p>12 MR. COMBS: Object to the form.</p> <p>13 A. I do not know. These look like</p> <p>14 Ethicon. MAUDE database I think is a -- these are</p> <p>15 per MDR reporting requirements. These look like</p> <p>16 internal complications reported to TVT-O.</p> <p>17 Q. Did Ethicon have any sort of</p> <p>18 regulatory requirement to report complications to</p> <p>19 the FDA, adverse events?</p> <p>20 A. Yeah, absolutely. It's my</p> <p>21 understanding that any complications, yeah, they</p> <p>22 report.</p> <p>23 Q. Okay. And looking at this</p> <p>24 complication sheet, ex-US means outside of the</p> <p>25 United States?</p>
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<p>1 MR. COMBS: Object to the form.</p> <p>2 A. I'm not familiar with specific issues</p> <p>3 other than -- I wouldn't call them issues. I would</p> <p>4 say anytime they're going through learning</p> <p>5 procedures, there's steps to the procedures they're</p> <p>6 learning and they discuss.</p> <p>7 Q. Well, were some doctors having</p> <p>8 difficulty getting the inserter off at the end of</p> <p>9 the procedure?</p> <p>10 A. There were surgeons, yes, that had</p> <p>11 trouble with that, that's correct.</p> <p>12 Q. Okay. And were some doctors having</p> <p>13 problems with excessive bleeding and buttonholing</p> <p>14 the vagina, do you recall that?</p> <p>15 A. I recall that happening, yes, but</p> <p>16 not, specifically, Secur. Buttonholing and</p> <p>17 excessive bleeding is -- are known complications to</p> <p>18 transobturator sling procedures. So I've heard</p> <p>19 surgeons speak of that --</p> <p>20 Q. Okay.</p> <p>21 A. -- many times.</p> <p>22 Q. Now, take a look at what's Bates No.</p> <p>23 00819625 and that's the complications, second to the</p> <p>24 last page.</p> <p>25 A. Got it.</p>	<p>1 A. Yes, that's correct. That's my</p> <p>2 understanding.</p> <p>3 Q. Okay.</p> <p>4 (There is a discussion off the record.)</p> <p>5 Q. Okay. I'm going to hand you --</p> <p>6 MS. WILSON: What's our next exhibit</p> <p>7 we're going to use?</p> <p>8 MR. COMBS: 780.</p> <p>9 MS. WILSON: 780, okay.</p> <p>10 Q. Okay. I'm just going to hand mark</p> <p>11 this 780. Take a look at that. I'm sorry I've only</p> <p>12 got two and I need my copy.</p> <p>13 MR. COMBS: Okay.</p> <p>14 A. This one doesn't have a sticker. Oh,</p> <p>15 here it is 779 and now it's called 780.</p> <p>16 MR. COMBS: Is it the same?</p> <p>17 A. It looks the same.</p> <p>18 MR. COMBS: You marked that as 779.</p> <p>19 MS. WILSON: That's perfect. And I'm</p> <p>20 going to give you that copy, Phil.</p> <p>21 MR. COMBS: You can give me the one</p> <p>22 marked 780. That's fine. Thanks.</p> <p>23 Q. So I want you to go back to the last</p> <p>24 exhibit we were talking about with the</p> <p>25 complications, okay.</p>

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<p>1 A. Yes.</p> <p>2 Q. Alright. And this is another e-mail</p> <p>3 and this is from Dr. Dennis Miller to Dharini Amin</p> <p>4 and Dr. Lucente is on this e-mail and your boss Paul</p> <p>5 Parisi is on this e-mail. Do you see that?</p> <p>6 A. I do.</p> <p>7 Q. Now, let me read this to you.</p> <p>8 "Dharini, thanks for the info. It's fantastic to</p> <p>9 know that TVT and TVT-O are still so safe, even with</p> <p>10 more surgeons participating. I know that all</p> <p>11 companies make these tables with the same format</p> <p>12 from the MAUDE database. But all surgeons know that</p> <p>13 the final column is a farce."</p> <p>14 Okay. So what's the final column there of</p> <p>15 the complaints?</p> <p>16 A. So assuming the attachment -- we're</p> <p>17 saying that the attachment referred in this document</p> <p>18 is the one, right?</p> <p>19 Q. Yes.</p> <p>20 A. We know that's the same attachment.</p> <p>21 MR. COMBS: Object to the form. I</p> <p>22 mean...</p> <p>23 Q. Just look at that, the final column</p> <p>24 there. It's called "Total Complaints," right?</p> <p>25 A. It does. And I remember him talking</p>	<p>1 Q. Do you have any idea what that is?</p> <p>2 A. I recall a cookbook being a term that</p> <p>3 they use more predominantly in Europe, although I</p> <p>4 must be honest with you, I never understood what it</p> <p>5 truly meant or I never used the term much myself.</p> <p>6 But it was just a reference to a document, yes.</p> <p>7 MS. WILSON: Okay. We're going to</p> <p>8 mark this now as 780.</p> <p>9 (Deposition Exhibit No. T780, e-mail string</p> <p>10 ETH.MESH.01761352 to 01761359 marked Highly</p> <p>11 Confidential Subject to Stipulation and Order of</p> <p>12 Confidentiality, was marked for identification.)</p> <p>13 A. Do we still need the other</p> <p>14 documents out?</p> <p>15 Q. No, we're good.</p> <p>16 A. Just to keep my piles.</p> <p>17 Q. Now who is Dave Robinson?</p> <p>18 A. He is our previous medical director</p> <p>19 or was a medical director.</p> <p>20 Q. And did you deal with him in</p> <p>21 Professional Ed?</p> <p>22 A. Sure.</p> <p>23 Q. So I want you to go to -- Exhibit 780</p> <p>24 is Bates No. 01761352. And the subject is regarding</p> <p>25 TVT-S cookbooks.</p>
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<p>1 about a percentage, placing a percentage on the</p> <p>2 chart. And I don't see a percentage on the chart.</p> <p>3 That's why I was questioning the last column.</p> <p>4 Q. So, in your opinion, as a</p> <p>5 Professional Education manager, is this the final</p> <p>6 column of total complaints that patients are having</p> <p>7 with the mesh, is it a farce, are these numbers</p> <p>8 real?</p> <p>9 MR. COMBS: Object to the form.</p> <p>10 A. That is not for me to comment on.</p> <p>11 This is not anything that I've ever authored or</p> <p>12 would have tracked. So I would never call this last</p> <p>13 column a farce myself, no.</p> <p>14 Q. Okay. Who is Dr. Dennis Miller?</p> <p>15 A. He is a urogynecologist and previous</p> <p>16 faculty member. I don't know that he's under</p> <p>17 contract for us at present.</p> <p>18 Q. Okay. Did Paul Parisi, did he think</p> <p>19 the numbers in the MAUDE database, the complication</p> <p>20 numbers, did he think it was a farce?</p> <p>21 MR. COMBS: Object to the form.</p> <p>22 A. Paul Parisi never told me that, no.</p> <p>23 Q. Okay. Have you ever heard of what's</p> <p>24 called a TVT-S cookbook?</p> <p>25 A. I've heard of the term, yes.</p>	<p>1 Take a moment to take a look at that. And</p> <p>2 can you read to the ladies and gentlemen of the jury</p> <p>3 what Dave Robinson wrote in this e-mail beginning on</p> <p>4 top of the second page of the exhibit.</p> <p>5 A. "The very first one I think that</p> <p>6 might," that one?</p> <p>7 Q. No, no, second page, top of the</p> <p>8 second page of the exhibit.</p> <p>9 A. I'm sorry. Got it.</p> <p>10 "I do not know if it is a problem of</p> <p>11 underreporting in some regions and very diligent</p> <p>12 reporting in others. It is clearly a technique</p> <p>13 issue or everyone would be having problems. Having</p> <p>14 said that, it is just as clear that we are having</p> <p>15 some type of training problems in order to prevent</p> <p>16 widespread negative talk. I think we must take</p> <p>17 palliative steps quickly. To that end, Axel, Dan,</p> <p>18 Oz and myself are meeting tomorrow a.m. for further</p> <p>19 strategy discussion. I'll let you know what</p> <p>20 happens. David."</p> <p>21 Q. So what were the very serious</p> <p>22 training problems that physicians were having with</p> <p>23 TVT-S?</p> <p>24 A. I'm not familiar with what David</p> <p>25 Robinson is referring to. You would have to ask</p>

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<p>1 him.</p> <p>2 Q. Well, as Professional Education</p> <p>3 manager and just in general being in Professional</p> <p>4 Ed, should you have all been aware of training</p> <p>5 problems?</p> <p>6 A. Yeah, if there was something going</p> <p>7 wrong with our training programs, yeah.</p> <p>8 Q. Okay. Not just your training</p> <p>9 programs, but if physicians were having problems</p> <p>10 using the device, is that something that</p> <p>11 Professional Ed should or would know about?</p> <p>12 A. Again, if it's relative to the way</p> <p>13 our training programs were being performed, I don't</p> <p>14 know what he's referring to here as training</p> <p>15 problems, in what context. There's you know, a lot</p> <p>16 of pages here. So I need to -- but I need to read</p> <p>17 more of the document to understand a little bit more</p> <p>18 to what he's referring to.</p> <p>19 Q. Let's go on down second page, bottom</p> <p>20 of the second page, and it's an e-mail from Alison</p> <p>21 London Brown. Who is she?</p> <p>22 A. Alison used to work in marketing, I</p> <p>23 believe. Don't quote me. She used to work in the</p> <p>24 organization. I don't recall her title.</p> <p>25 Q. And the e-mail says, "David, I really</p>	<p>1 used to work in marketing.</p> <p>2 Q. Do you think it's odd that -- do you</p> <p>3 think it's odd that she's addressing these issues?</p> <p>4 A. I don't know that she's addressing</p> <p>5 issues other than -- she looks like she's</p> <p>6 corresponding with our medical director, her medical</p> <p>7 affairs director. And it looks like the medical</p> <p>8 director affairs from Europe is included on this</p> <p>9 trail, too. So I don't know that that's odd that</p> <p>10 she would be communicating with him about anything</p> <p>11 related to the product.</p> <p>12 Q. Okay. Do you know if Professional Ed</p> <p>13 department in any way addressed this issue in 2006?</p> <p>14 A. Everything I read here is relative to</p> <p>15 Europe and I was not working internationally at the</p> <p>16 time. So I can't speak to anything that was</p> <p>17 happening at that time.</p> <p>18 Q. Would it have been important if there</p> <p>19 were tensioning issues for Professional Ed to</p> <p>20 respond to the issue?</p> <p>21 A. I'm sorry, say that again.</p> <p>22 Q. If there tensioning issues, which we</p> <p>23 know that there were, would it have been important</p> <p>24 for Professional Ed to respond to those issues, that</p> <p>25 physicians were having with tensioning?</p>
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<p>1 don't understand why we hear so many complaints from</p> <p>2 EMEA versus the US especially on the training</p> <p>3 materials." Do you know what she's talking about?</p> <p>4 A. I don't.</p> <p>5 Q. And then she goes on to talk about,</p> <p>6 "We have heard nothing but positive comments from</p> <p>7 the world outside of Germany, France and parts of</p> <p>8 West EU, South Africa, Asia, Asia Pacific, Canada</p> <p>9 have been quite pleased with the quality and</p> <p>10 clarify" -- she meant clarity -- "of the materials</p> <p>11 and the training with the only sticky question</p> <p>12 regarding the tensioning, as we cannot accurately</p> <p>13 describe this in writing."</p> <p>14 How did Professional Ed address this issue</p> <p>15 with tensioning?</p> <p>16 MR. COMBS: Object to the form.</p> <p>17 A. Are you referring to -- I don't know.</p> <p>18 You'd have to ask Alison what she's referring to as</p> <p>19 far as training and tensioning.</p> <p>20 I can tell you what we did in 2006 in the</p> <p>21 US. We talked about it. But I didn't -- I'm not</p> <p>22 aware of what these specific tensioning issues she's</p> <p>23 referring to.</p> <p>24 Q. What department is Alison in?</p> <p>25 A. She -- again, I think -- I think she</p>	<p>1 MR. COMBS: Object to form.</p> <p>2 A. Prof Ed would have been involved to</p> <p>3 the extent that surgeons at our courses talked about</p> <p>4 any challenges or anything relative to the</p> <p>5 procedure, they would mention that at the course and</p> <p>6 it would be discussed, yes.</p> <p>7 Q. I mean, it's Prof Ed that has the</p> <p>8 one-on-one contact, right, with the preceptees and</p> <p>9 the preceptors?</p> <p>10 A. Yeah, the Prof Ed department works</p> <p>11 with the faculty to train all the doctors and help</p> <p>12 them perform these procedures as safely as they can,</p> <p>13 yes.</p> <p>14 Q. It's not marketing, right, marketing</p> <p>15 doesn't put on the training events?</p> <p>16 A. That's true.</p> <p>17 Q. And after these issues were</p> <p>18 identified with tensioning or any other issues</p> <p>19 identified while TVT-S was on the market, the IFU</p> <p>20 never changed, right?</p> <p>21 A. I'm not aware of any IFU changes with</p> <p>22 the TVT-Secur.</p> <p>23 (Deposition Exhibit No. T781, e-mail string</p> <p>24 ETH.MESH.06121290 to 06121292 marked Confidential</p> <p>25 Subject to Stipulation and Order of Confidentiality,</p>

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<p>1 was marked for identification.)</p> <p>2 Q. Okay. I'm going to hand you what's</p> <p>3 been marked as Exhibit 781 and it's Bates No.</p> <p>4 06121290.</p> <p>5 MS. WILSON: There you go.</p> <p>6 Q. And this is an e-mail from you to Ji</p> <p>7 Hee Yeo -- Yeo?</p> <p>8 A. Yeo.</p> <p>9 Q. And who is Ji Hee Yeo?</p> <p>10 A. Ji Hee worked in marketing and Prof</p> <p>11 Ed for Asia Pacific.</p> <p>12 Q. And do you recall this e-mail?</p> <p>13 A. Not particularly. But let me refresh</p> <p>14 myself. Okay.</p> <p>15 Q. So is Mr. Yeo expressing some</p> <p>16 concerns to you that while there is still some</p> <p>17 interest in TVT-S, there's some hesitancy as well in</p> <p>18 large part because the procedure is simply not</p> <p>19 standardized yet, and that's as of 2008, it's been</p> <p>20 on the market over two years at this point, two and</p> <p>21 a half years?</p> <p>22 MR. COMBS: Object to form.</p> <p>23 Q. Do you recall this?</p> <p>24 A. I'm vaguely recalling the e-mail.</p> <p>25 But I'm sorry, could you -- the question is? Can</p>	<p>1 specifically, about her comment there.</p> <p>2 Q. And she also talks about problems</p> <p>3 with erosion and dyspareunia. And do you know what</p> <p>4 that is, dyspareunia?</p> <p>5 A. Yes, I'm familiar with what it is.</p> <p>6 Q. What is it?</p> <p>7 A. I understand it to be painful</p> <p>8 intercourse or pain experienced during intercourse.</p> <p>9 MS. WILSON: Alright. Let's go</p> <p>10 to...</p> <p>11 (Deposition Exhibit No. T782, e-mail string</p> <p>12 ETH.MESH.00815933 to 00815934 marked Highly</p> <p>13 Confidential Subject to Stipulation and Order of</p> <p>14 Confidentiality, was marked for identification.)</p> <p>15 Q. This is Exhibit 782 and it's talking</p> <p>16 about summary of Gynecare TVT-Secur system critical</p> <p>17 steps. And I'm going to go ahead and make its own</p> <p>18 exhibit, 783.</p> <p>19 (Deposition Exhibit No. T783, Summary of</p> <p>20 Gynecare TVT Secur System Critical Steps</p> <p>21 ETH.MESH.00805441 &amp; 00805442 marked Highly</p> <p>22 confidential Subject to Stipulation and Order of</p> <p>23 Confidentiality, was marked for identification.)</p> <p>24 MS. WILSON: And I'm going to give</p> <p>25 you guys a copy. There you go.</p>
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<p>1 you repeat the question?</p> <p>2 Q. Well, as of 2008, after the product</p> <p>3 TVT-S had been on the market two and a half years,</p> <p>4 it's still not standardized?</p> <p>5 MR. COMBS: Object to form.</p> <p>6 A. I don't -- that's what Ji Hee Yeo</p> <p>7 wrote, but I don't know that I would agree with</p> <p>8 that, but that's what she wrote.</p> <p>9 Q. Well, do you agree?</p> <p>10 A. No.</p> <p>11 Q. As of -- okay.</p> <p>12 So your testimony is that as of 2008, even</p> <p>13 though you're still getting these complaints from</p> <p>14 various people, you think the procedure was</p> <p>15 standardized?</p> <p>16 A. I haven't been receiving complaints</p> <p>17 from all these people. From the Prof Ed events that</p> <p>18 I participated in and everything I saw, I saw it was</p> <p>19 a standardized procedure per the IFU and the</p> <p>20 procedural step guides and things we had. So they</p> <p>21 taught it the same way at every course.</p> <p>22 Q. You didn't respond that way. I mean</p> <p>23 -- I mean, did you ever respond to Ji Hee, well, I</p> <p>24 disagree with you, it is standardized?</p> <p>25 A. I don't recall if we spoke,</p>	<p>1 Q. And, as of October 2008, you were</p> <p>2 director, right?</p> <p>3 A. Correct.</p> <p>4 Q. Professional Ed worldwide?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. And I apologize, Mr. Pattysen.</p> <p>7 I know you told me. Who is Georgia Long?</p> <p>8 A. Georgia Long at this time, I believe,</p> <p>9 worked in marketing in Canada, I believe, her role</p> <p>10 at that time.</p> <p>11 Q. Alright. So you worked a lot with</p> <p>12 the marketing folks?</p> <p>13 A. Worked with a lot of people.</p> <p>14 Marketing was one of them, yes.</p> <p>15 Q. Alright. And this is an e-mail from</p> <p>16 her to you saying "Hi, Bart, it would be great if</p> <p>17 when you were running preceptor meetings there could</p> <p>18 be a few spots to us as well. It's hard to</p> <p>19 communicate changes in protocol training when you</p> <p>20 don't even know that they are happening."</p> <p>21 Do you recall this e-mail?</p> <p>22 A. No.</p> <p>23 Q. What did she mean by, "there could be</p> <p>24 a few spots to us as well"?</p> <p>25 A. I was wondering the same thing. I do</p>

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<p>1 not know. A few spots to us as well?</p> <p>2 Q. Was she wanting spots for people in</p> <p>3 marketing or Canadian physicians?</p> <p>4 A. I'd have to read through the e-mail.</p> <p>5 Yeah, it looks like there might have been a meeting</p> <p>6 coming out and maybe she was looking to get some</p> <p>7 surgeons in from Canada, so she could have been --</p> <p>8 there could have been some surgeons identified that</p> <p>9 someone in the sales or Prof Ed team had identified</p> <p>10 as good targets that she was contacting me on, yeah.</p> <p>11 Q. Okay. I want you to look at</p> <p>12 Exhibit 783, "Summary of Gynecare TVT Secur Critical</p> <p>13 Steps." Can you please tell the ladies and</p> <p>14 gentlemen of the jury what this is?</p> <p>15 A. "Summary Gynecare TVT-Secur system</p> <p>16 Critical Steps." It says, "standardized teaching</p> <p>17 approach based on the August preceptor meeting."</p> <p>18 Q. So is it fair to say that the system</p> <p>19 critical steps didn't come into being until August</p> <p>20 of 2000 -- is it August -- you tell me, August of</p> <p>21 2007 or August 2008?</p> <p>22 A. I don't know that I can tell you.</p> <p>23 Q. Well, do you recall?</p> <p>24 A. No.</p> <p>25 Q. Are you familiar with this document,</p>	<p>1 of this -- if this was created later -- you're</p> <p>2 telling me it is -- then, no, I don't know that it</p> <p>3 was available prior to this, no.</p> <p>4 Q. Well, your company told us that it</p> <p>5 was. This is information we're getting from you</p> <p>6 all.</p> <p>7 I mean, Mr. Pattysen, as you sit here today,</p> <p>8 do you remember any of the Professional Ed materials</p> <p>9 you used to train these doctors?</p> <p>10 A. Yes, we've looked at a lot of</p> <p>11 materials and some -- when things came out and were</p> <p>12 updated and we included them in. So, yes, a lot of</p> <p>13 documents we've seen here today were used in our</p> <p>14 Prof Ed events.</p> <p>15 Q. Did you recommend as the worldwide</p> <p>16 director of Professional Ed that the IFU be updated</p> <p>17 when you came up with the Summary of the Gynecare</p> <p>18 TVT-Secur System Critical Steps standardized</p> <p>19 teaching approach based on August preceptor meeting?</p> <p>20 A. No, I did not recommend a change of</p> <p>21 our IFU.</p> <p>22 MR. COMBS: Object to form.</p> <p>23 Q. Did anyone in your department?</p> <p>24 A. I have no idea.</p> <p>25 Q. What did you do to communicate with</p>
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<p>1 Mr. Pattysen?</p> <p>2 A. I am looking at -- I think I have</p> <p>3 seen this before, yeah.</p> <p>4 Q. Okay. Do you recall the timeframe in</p> <p>5 which Professional Ed used this document?</p> <p>6 A. Yeah, again, I don't know that I was</p> <p>7 at this event in August, this preceptor meeting.</p> <p>8 (There is a discussion off the record.)</p> <p>9 A. And I'm trying to make the</p> <p>10 connection, too, between this document and this, to</p> <p>11 make sure they're referring to the same thing.</p> <p>12 Q. I have the date of this being copy</p> <p>13 approved November 26th of '07 and then again</p> <p>14 December 18th of '07, okay?</p> <p>15 A. Okay.</p> <p>16 Q. According to the metadata produced by</p> <p>17 your company.</p> <p>18 So is it fair to say that all the doctors</p> <p>19 who placed TVT-S in women prior to November 26, '07</p> <p>20 and December 18th of '07, they weren't privy to the</p> <p>21 Summary of the Gynecare TVT-Secur system Critical</p> <p>22 Steps?</p> <p>23 MR. COMBS: Object to the form.</p> <p>24 A. I don't know how this document was</p> <p>25 used or if this document was -- I don't know if any</p>	<p>1 all the doctors who came before November 26, '07</p> <p>2 that there is a standardized teaching approach</p> <p>3 called the System Critical Steps to implantation of</p> <p>4 this product?</p> <p>5 A. What did I do with the doctors that</p> <p>6 attended our meetings?</p> <p>7 Q. Yeah.</p> <p>8 A. We trained them just as we always do.</p> <p>9 We use the IFU. We review material or a copy review</p> <p>10 team does and our preceptors, surgeons who are</p> <p>11 experienced in these devices, train them.</p> <p>12 MR. COMBS: Again, Miss Wilson, it's</p> <p>13 3:22.</p> <p>14 MS. WILSON: Okay. I've got like</p> <p>15 five more hotdogs that I took out of 60 documents.</p> <p>16 So I'd like to get through them and I will hurry.</p> <p>17 Okay. Exhibit 784, Bates No. 00815892.</p> <p>18 (Deposition Exhibit No. T784, e-mail string</p> <p>19 ETH.MESH.00815892 to 00815894 marked Highly</p> <p>20 Confidential Subject to Stipulation and Order of</p> <p>21 Confidentiality, was marked for identification.)</p> <p>22 Q. Okay. So this is, again, an e-mail</p> <p>23 where you and Georgia Long are communicating.</p> <p>24 Georgia is from marketing. You're in Professional</p> <p>25 Ed. And I want you to focus on the second e-mail</p>

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<p>1 exchange there on the first page. It's you to</p> <p>2 Georgia.</p> <p>3 A. You.</p> <p>4 Q. "Ha, yes on Belgium. Good times.</p> <p>5 And I love Belgium beer. Can't wait to drink you</p> <p>6 under the table. PS I keep forgetting that you're</p> <p>7 not uterine health focus and so I should have</p> <p>8 forwarded the AAGL, KOL key opinion leader, dinner</p> <p>9 request to April, right? Do you know if there are</p> <p>10 any big shots I should be looking for in Vegas in</p> <p>11 two weeks?"</p> <p>12 What are you talking about there, "big</p> <p>13 shots"?</p> <p>14 A. Probably just doctors, surgeons that</p> <p>15 are experienced in our procedures.</p> <p>16 Q. Now, why would you be looking for</p> <p>17 them, to be a preceptor for you?</p> <p>18 A. Well, she's in Canada. So,</p> <p>19 potentially, if there is training requested in</p> <p>20 Canada, she's not going to the meeting, I presume</p> <p>21 I'd connect with the surgeon and discuss any issues</p> <p>22 they may have and hear how things are going up in</p> <p>23 Canada.</p> <p>24 Q. What does a doctor have to do in</p> <p>25 order to be a "big shot," as determined by the J&amp;J</p>	<p>1 Confidential "P" Subject to Stipulation and Order of</p> <p>2 Confidentiality, was marked for identification.)</p> <p>3 MS. WILSON: Okay. I'm going to mark</p> <p>4 -- Exhibit 785 is Ethicon 00815877.</p> <p>5 Q. Okay. What I want to focus on is --</p> <p>6 it's the third page of this e-mail and it's from you</p> <p>7 to Georgia Long. And it's talking about a US</p> <p>8 preceptor meeting run from marketing last year and,</p> <p>9 we, Prof Ed, barely had enough time to get even a</p> <p>10 portion of our US preceptors there.</p> <p>11 Do you remember this e-mail?</p> <p>12 A. No, just some of the e-mails that</p> <p>13 were tied to it, vaguely.</p> <p>14 Q. Would marketing run preceptor</p> <p>15 meetings?</p> <p>16 A. Yeah, marketing would run advisory</p> <p>17 boards to get information from preceptors, yeah,</p> <p>18 they would run any sort of -- you know, anytime you</p> <p>19 get preceptors together and understand, learn from</p> <p>20 them, they would host meetings, yes.</p> <p>21 Q. Why would marketing do that instead</p> <p>22 of Prof Ed?</p> <p>23 A. Because they're surgeons who have a</p> <p>24 lot of experience, a lot of knowledge and marketing</p> <p>25 may want to learn from them. So it's totally</p>
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<p>1 Professional Ed department?</p> <p>2 A. I think this is not anything that J&amp;J</p> <p>3 would say or Ethicon would say. I think "big shot"</p> <p>4 is just a slang that I used here in this e-mail to</p> <p>5 refer to surgeons. I have a lot of respect for</p> <p>6 surgeons and sometimes I might call them big shot or</p> <p>7 something of the like.</p> <p>8 Q. Okay. Go on down to the last part of</p> <p>9 the e-mail. It's still you and Georgia, Georgia to</p> <p>10 you. "Oh, I like the replies. I find that my</p> <p>11 problem is not so much my response to e-mails, but</p> <p>12 how I actually talk to people live. It's something</p> <p>13 about this job has made me a bit of a know-it-all,</p> <p>14 do it my way kind of gal. The chumps really like</p> <p>15 it. Kim roped me into a dinner with a new rep who</p> <p>16 is in town. Great, just what I want to do on a</p> <p>17 Wednesday night in the city. By the way, I'm in the</p> <p>18 Belgium meeting."</p> <p>19 So this is what started the whole e-mail</p> <p>20 exchange, right?</p> <p>21 A. Yeah, there's -- yeah, that other</p> <p>22 e-mail was below it, yes.</p> <p>23 Q. Okay.</p> <p>24 (Deposition Exhibit No. T785, e-mail string</p> <p>25 ETH.MESH.00815877 to 00815881 marked Highly</p>	<p>1 normal.</p> <p>2 Q. Okay.</p> <p>3 (Deposition Exhibit No. T786, e-mail string</p> <p>4 ETH.MESH.01719509 marked Highly Confidential Subject</p> <p>5 to Stipulation and Order of confidentiality, was</p> <p>6 marked for identification.)</p> <p>7 MS. WILSON: I'm going to hand you</p> <p>8 786, which is 01719509 and 787 which is 01719510. I</p> <p>9 hand this to you together. That's for him, Mr.</p> <p>10 Pattyson. And then, Phil, here is your copy.</p> <p>11 (Deposition Exhibit No. T787, chart</p> <p>12 ETH.MESH.01719510 to 01719516 marked Confidential,</p> <p>13 was marked for identification.)</p> <p>14 Q. Okay. And this is you 2008 to, I</p> <p>15 assume, it's people in marketing.</p> <p>16 Who all is on that e-mail, Mr. Pattyson?</p> <p>17 A. I'm looking at a name I don't</p> <p>18 recognize. It looks like a combination of folks</p> <p>19 around the world, some from Asia, some from Latin</p> <p>20 America.</p> <p>21 Q. What departments are they from?</p> <p>22 A. Various.</p> <p>23 Q. Tell me.</p> <p>24 A. Prof Ed, marketing, sales training, I</p> <p>25 think. Sometimes overseas they have to carry</p>

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<p>1 multiple roles because we don't have as many 2 people. 3 Q. Is there anyone on this e-mail 4 exchange, is it all sales and marketing and Prof Ed? 5 A. I'm sorry? 6 Q. Is it all sales, marketing and Prof 7 Ed; is what I'm asking you? 8 A. I don't see anybody here from sales 9 that I would recognize from sales. 10 Q. Well, you just said sales rep. You 11 told me that a minute ago. 12 A. I'm sorry. I must have just 13 misspoken. I don't recognize a name here. I don't 14 recall who Sami Majdalani is. 15 Q. Okay. So here you say, "Please see 16 the attached overview of mini-slides presented at 17 IUGA 2007 and 2008. While we know that there have 18 been some significant learnings on how to best place 19 TVT-Secur and the data speaks to that, an important 20 point to note is that a lot more data are currently 21 under way and some with some very promising 22 results." 23 Okay. We've talked about this a lot. I 24 mean, in 2008 you're sending an e-mail to various 25 people around the world saying that they're</p>	<p>1 attached? 2 Q. Yes; as produced by your company. 3 A. As produced by my company? 4 Q. Yes. This is supposedly the data 5 attached to this e-mail. 6 A. Yeah, I'm just telling you, honestly, 7 I don't recall where this document came from. 8 However, if this is the document that was attached 9 to the e-mail, it's very possible that I might have 10 shared it to some folks, yes, with clinical papers. 11 Q. Okay. And it's now been on the 12 market going on three years, you got data supporting 13 significant placement problems and how is 14 Professional Ed responding to this data? 15 MR. COMBS: Object to form. 16 A. I didn't say that this data was 17 reporting significant problems. I said there's 18 learnings and I think that's papers, resources for 19 them to look at. 20 Q. I would love to take the time to go 21 through each and every entry on this but, obviously, 22 I can't. So it speaks for itself. 23 Would it have been important at this point 24 for you to communicate the significant learnings and 25 the problems with placement with physician</p>
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<p>1 significant learnings on TVT and the data supports 2 that. 3 MR. COMBS: Object to the form. 4 Q. Right? 5 A. That's -- I wrote something similar 6 to that, yes, sharing some clinical information from 7 a conference that I attended with a bunch of 8 surgeons, yes, that's what it looks like here. 9 Q. There is problems placing -- and 10 we're going to look at this document. I forget the 11 number, I think, it's 787. Go ahead and take a look 12 at it. There's problems placing it. 13 MR. COMBS: And, Miss Wilson, it's 14 after 3:30. 15 MS. WILSON: I'm almost done. 16 MR. COMBS: Please wrap this up. 17 MS. WILSON: I am. 18 Q. Do you see that? I mean, this is the 19 data you're talking about? 20 A. I don't know what this document is, 21 the second document. 22 Q. Are you telling me you do not 23 recognize this document? 24 A. I don't recognize -- you're saying -- 25 I assume you're going to say this is in the</p>	<p>1 customers? 2 MR. COMBS: Object to the form. 3 A. Could you restate the question? 4 Q. Would it have been important for you 5 to have reported this information -- you testified 6 tons of times yesterday how much you shared with 7 physician customers, all the information you got. 8 Would it have been important for you and 9 Prof Ed to have shared this with your physician 10 customers, this data? 11 A. Are you -- I don't know that this 12 information was not available to our preceptors and 13 our customers. 14 MS. WILSON: Okay. Last one and then 15 I'm done. 16 (Deposition Exhibit No. T788, e-mail string 17 ETH.MESH.00814238 &amp; 00814239 marked Highly 18 Confidential Subject to Stipulation and Order of 19 Confidentiality, was marked for identification.) 20 Q. 788. This is it. It's one sheet. 21 MS. WILSON: Here you go. 22 MR. COMBS: Shame on me. 23 Q. And, Mr. Pattyson, this is the last 24 exhibit. It's ETH.MESH.00814238. 25 And this is -- who is Piet Hinoul?</p>

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<p>1 A. Piet Hinoul is our medical director, 2 previous medical director. 3 Q. Okay. And you're telling him that, 4 "I think we as a company are long overdue with 5 providing the world with a status check on 6 TVT-Secur, the good, the bad and the hopefully not 7 too ugly." 8 A. Yeah, I'm not recalling this 9 communication. It says Daniel Thornburgh is who 10 it's from. 11 MR. THORNBURGH: You must have given 12 my e-mail to you. 13 Don't mark my e-mail. 14 MS. WILSON: Yeah. Sorry, sorry, 15 sorry. 16 Q. Alright. Here you go. 17 A. Thanks. 18 Q. Do you see that front page? Just the 19 front page, that's all I want you to look at. 20 A. I'm sorry, where would you like me to 21 look? 22 Q. It says, "Piet, Thank you for 23 sharing. I will not share with -- I'm not going to 24 share this with David Sepulveda," who we already 25 talked about is a preceptor.</p>	<p>1 situation? 2 MR. COMBS: Object to the form. 3 A. I don't know. But I think -- since 4 they own the brand, as far as the product, they 5 should be involved. 6 Q. Okay. That's all I've got. 7 MR. COMBS: Okay. Let's go off the 8 record. 9 THE VIDEOGRAPHER: The time is now 10 3:40. We're going off the record. 11 (Recess taken 3:40 to 3:50 p.m.) 12 THE VIDEOGRAPHER: The time is now 13 3:50. This is the beginning of Disk No. 6. We are 14 back on the record. 15 EXAMINATION BY MR. COMBS: 16 Q. Mr. Pattyson, before we get started 17 with my questions of you, I want you to remind the 18 jury of your testimony regarding the spasms that you 19 have in your face. 20 What is that medical condition? 21 A. It's referred to as a hemifacial 22 spasm. It's an anatomical condition with an artery 23 in my face and it just sort of involuntarily moves 24 sometimes. 25 Q. And I just want to make sure that the</p>
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<p>1 You said, "I think we as a company are long 2 overdue in providing the world with a status check 3 on TVT-Secur, the good, the bad and the hopefully 4 not too ugly." Do you recall this e-mail? 5 A. I'm just trying to refresh myself. 6 Hold on. 7 Q. Okay. I understand. 8 A. Yeah, the only thing I can say is 9 that as we talked about earlier, people had comments 10 during the placement of Secur. Some people loved 11 it, some people had a little bit of trouble with the 12 learning curve in appreciating the device. So some 13 people had trouble with the delivery system and how 14 to place it in the tissue. Some doctors took it 15 upon themselves to place it a little bit in the 16 wrong place. So I remember discussions around that 17 with our faculty. 18 Q. It's now been over three years in the 19 stream of commerce and being placed in women for 20 three years. And you say, "I am constantly fielding 21 questions as both are as well, I'm sure, regarding 22 Secur. What do you think? If you agree, then 23 perhaps I will set up short call with our marketing 24 folks." 25 What was marketing going to do to help the</p>	<p>1 jury would understand that if they saw that moving 2 during times when you're testifying, it doesn't have 3 any reflection or bearing upon what you're 4 testifying about, does it? 5 A. No. 6 Q. It's a condition that you've had and 7 that you've been living with more than half a 8 decade? 9 A. That's true. 10 Q. Mr. Pattyson, let me ask you just -- 11 I'm going to ask you some very brief questions about 12 your curriculum vitae. 13 You were asked questions by the Plaintiffs' 14 attorneys in this case and it's my understanding 15 that you worked in the logistics department for a 16 while, the manufacturing department for a while and 17 then Professional Education for a while; is that 18 correct? 19 A. And sales as well, yes. 20 Q. And your sales. 21 Now, you were never in medical affairs, were 22 you? 23 A. No. 24 Q. You were never in clinical affairs, 25 were you?</p>



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<p>1 A. No.</p> <p>2 Q. And you were never in the marketing</p> <p>3 department, were you?</p> <p>4 A. No.</p> <p>5 Q. Now, Mr. Thornburgh asked you</p> <p>6 questions about whether you cared if a surgeon was</p> <p>7 adequately trained.</p> <p>8 Tell this jury, did you care if the surgeons</p> <p>9 were adequately trained on the use of the products?</p> <p>10 MR. THORNBURGH: Objection.</p> <p>11 A. It was probably one of the biggest</p> <p>12 things we cared about is ensuring that the surgeons</p> <p>13 received the proper training on the safe and</p> <p>14 efficacious use of our products, yes.</p> <p>15 Q. And what is the entire purpose of</p> <p>16 Prof Ed?</p> <p>17 A. Just that, I think, Prof Ed is -- was</p> <p>18 created to separate ourselves from marketing so that</p> <p>19 there's no misconception as to what our function is</p> <p>20 and that is to teach on the safe and efficacious use</p> <p>21 of our products and facilitate that process.</p> <p>22 Q. And are you a resource for the</p> <p>23 surgeon?</p> <p>24 A. Absolutely.</p> <p>25 Q. And, ultimately, what is the party</p>	<p>1 business, is it?</p> <p>2 A. No.</p> <p>3 Q. And let's talk for a second about</p> <p>4 board certification.</p> <p>5 Ethicon doesn't administer board</p> <p>6 certification tests, does it?</p> <p>7 A. No.</p> <p>8 Q. Now, the surgeons that would take the</p> <p>9 training to use your product, they would be board</p> <p>10 certified, wouldn't they?</p> <p>11 A. Yes, they would, absolutely.</p> <p>12 Q. And what does that mean?</p> <p>13 MR. THORNBURGH: Objection, calls for</p> <p>14 speculation.</p> <p>15 A. My involvement and understanding of</p> <p>16 that was as a sales rep and later as a Prof Ed</p> <p>17 person is that the only doctors that would attend</p> <p>18 our events are doctors that we've seen perform these</p> <p>19 types of procedures or like procedures in the</p> <p>20 operating room or ambulatory surgery centers.</p> <p>21 Q. And have these surgeons before they</p> <p>22 can perform those procedures have been board</p> <p>23 certified by a college such as the American Board of</p> <p>24 Gynecology?</p> <p>25 A. Yes.</p>
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<p>1 that's responsible to determine if a surgeon is</p> <p>2 qualified?</p> <p>3 A. Well, I'm not a surgeon myself.</p> <p>4 However I know they need to get -- there's board</p> <p>5 certification that happens, a medical board, that</p> <p>6 certifies them in the specialty of their choosing or</p> <p>7 decision after medical school and then there's</p> <p>8 credentialing and things that happen as well after</p> <p>9 their certification, wherever they chose to</p> <p>10 ultimately work.</p> <p>11 Q. And does a surgeon have to make a</p> <p>12 decision about whether he or she is able to use a</p> <p>13 product?</p> <p>14 A. I believe so, yes.</p> <p>15 Q. And does a hospital have to make a</p> <p>16 decision about whether a surgeon's credentialed to</p> <p>17 use a product or perform a procedure?</p> <p>18 MR. THORNBURGH: Objection.</p> <p>19 A. After speaking to many surgeons,</p> <p>20 that's what I understand, yes.</p> <p>21 Q. And Ethicon -- you testified during</p> <p>22 your deposition Ethicon is not in the certification</p> <p>23 business, is it?</p> <p>24 A. No.</p> <p>25 Q. And it's not in the credentialing</p>	<p>1 MR. THORNBURGH: Objection.</p> <p>2 Q. Now --</p> <p>3 MR. THORNBURGH: Lack of foundation,</p> <p>4 calls for speculation.</p> <p>5 Q. -- Mr. Pattyson, I want to ask you</p> <p>6 some questions about the preceptors for your classes</p> <p>7 and the preceptees for your classes.</p> <p>8 A. Sure.</p> <p>9 Q. Can you look at Exhibit 740, please.</p> <p>10 A. Sure. Okay.</p> <p>11 Q. Okay. Do you remember being asked</p> <p>12 questions about this e-mail?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Is this the e-mail which you</p> <p>15 referred to Dr. Lucente as the top dog?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. What did you mean?</p> <p>18 MR. THORNBURGH: Objection. The</p> <p>19 document speaks for itself.</p> <p>20 A. It, actually, says "highest paid</p> <p>21 dog."</p> <p>22 Q. What did you mean?</p> <p>23 A. I refer to him as that -- it's a</p> <p>24 slang term, by the way, obviously. But I thought he</p> <p>25 was the best and he was on the higher end of the</p>

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<p>1     honorarium, but he was the best surgeon we had</p> <p>2     teaching for us.</p> <p>3         Q.     And when you say that, tell the jury</p> <p>4     what you mean.</p> <p>5         A.     I just think he had unbelievable</p> <p>6     clinical experience to speak to with our products</p> <p>7     and with other elements of surgery. And I heard</p> <p>8     that from all the surgeons that would attend his</p> <p>9     courses and that is on an international basis.</p> <p>10         MR. THORNBURGH: Objection, hearsay.</p> <p>11     Move to strike.</p> <p>12         A.     I just think he's a very -- after</p> <p>13     watching him teach many times, I just think he was</p> <p>14     extremely skilled and knowledgeable about these</p> <p>15     types of procedures and disease states.</p> <p>16         Q.     Now, was Dr. Lucente -- strike that.</p> <p>17         Dr. Lucente was, obviously, paid for the</p> <p>18     work that he did as a preceptor, wasn't he?</p> <p>19         A.     Yes, he was.</p> <p>20         Q.     And were all the preceptors paid?</p> <p>21         A.     Yes.</p> <p>22         Q.     And did the attendees at the</p> <p>23     conferences understand that the preceptors were</p> <p>24     paid?</p> <p>25         A.     Yes.</p>	<p>1         A.     Absolutely. I often heard that</p> <p>2     surgeons just say -- you know, he would often say it</p> <p>3     at the beginning of his presentation and throughout</p> <p>4     the day I'd often hear it at the stations, you know,</p> <p>5     and things to the nature that, you know, I'm -- I</p> <p>6     work for Ethicon or they're paying me to be here,</p> <p>7     but I'm not saying this on their behalf. This is my</p> <p>8     clinical experience as a customer as well as a paid</p> <p>9     faculty.</p> <p>10         Q.     Now, Mr. Pattyson --</p> <p>11         MR. COMBS: Could you mark that as</p> <p>12     789.</p> <p>13         (Deposition Exhibit No. T789, Faculty</p> <p>14     Development Management ETH.MESH00420577, was marked</p> <p>15     for identification.)</p> <p>16         MR. COMBS: Thank you.</p> <p>17         Q.     Mr. Pattyson, if you could turn to</p> <p>18     the -- is that a document entitled "Faculty</p> <p>19     Development and Management"?</p> <p>20         A.     Yes.</p> <p>21         Q.     Okay. Could you turn to the</p> <p>22     approximate -- well, about the tenth page of that,</p> <p>23     "the Global Faculty Selection Criteria"?</p> <p>24         MR. THORNBURGH: I'm sorry. Do you</p> <p>25     have a date on this, for the record?</p>
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<p>1         MR. THORNBURGH: Objection, calls for</p> <p>2     speculation.</p> <p>3         A.     At every event that I ever attended,</p> <p>4     if it wasn't on the slides, which I recall it often</p> <p>5     was, they would also disclose it themselves. A lot</p> <p>6     of times attendees attending these programs,</p> <p>7     typically, knew that it was a company sponsored</p> <p>8     event. So there was no misunderstanding that</p> <p>9     whoever was teaching the event was working on our</p> <p>10     behalf.</p> <p>11         MR. THORNBURGH: Objection.</p> <p>12         Q.     And your testimony about this</p> <p>13     disclosure, that's based upon your personal</p> <p>14     experiences of attending these events?</p> <p>15         A.     That's correct.</p> <p>16         Q.     And how many Prof Ed events do you</p> <p>17     think you've attended during the six years you</p> <p>18     worked in Prof Ed?</p> <p>19         A.     That's tough to say. I would say</p> <p>20     probably over a hundred, maybe 200.</p> <p>21         Q.     And the events that you attended, the</p> <p>22     speaker would make a disclosure to the audience that</p> <p>23     he was being paid by the company for his time in</p> <p>24     giving that presentation?</p> <p>25         MR. THORNBURGH: Objection.</p>	<p>1         MR. COMBS: (No response.)</p> <p>2         A.     Okay.</p> <p>3         Q.     Now --</p> <p>4         MR. THORNBURGH: What page was that?</p> <p>5         MR. COMBS: It's the page that's</p> <p>6     entitled "Global Faculty." It's, approximately, ten</p> <p>7     pages in.</p> <p>8         MR. THORNBURGH: Okay. Do you have a</p> <p>9     starts Bates No. so I could look at it later on?</p> <p>10         MR. ROSENBLATT: It's on the top.</p> <p>11         MR. COMBS: On the top.</p> <p>12         Q.     Now, Mr. Pattyson, does that document</p> <p>13     set forth some of the criteria that were used to</p> <p>14     pick the preceptors, the faculty for Professional</p> <p>15     Education events?</p> <p>16         A.     Yes. My understanding is that this</p> <p>17     nice comprehensive list of criteria that was used to</p> <p>18     select faculty on a global basis, yes.</p> <p>19         Q.     And you're aware from the time that</p> <p>20     you worked in Prof Ed of factors that were used to</p> <p>21     select global faculty, weren't you?</p> <p>22         A.     Yes.</p> <p>23         Q.     And tell the jury what some of the</p> <p>24     things are that the company would look for when</p> <p>25     selecting global faculty.</p>

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<p>1 A. Well, sometimes where they operated</p> <p>2 at, what institution, are they willing to travel,</p> <p>3 sometimes teaching on our behalf requires the</p> <p>4 surgeon to travel, are they board certified, of</p> <p>5 course; if they have any affiliation or work with</p> <p>6 any of the international societies, are they well</p> <p>7 published. A lot of surgeons, you know, publish</p> <p>8 their data, their research. Some of them are</p> <p>9 fellowship trained. There's a whole litany of kind</p> <p>10 of criteria that we would consider when -- that is</p> <p>11 just a few of them. Are they speaker trained, how</p> <p>12 effective and dynamic are they as far as speaking in</p> <p>13 front of a large audience, do they understand adult</p> <p>14 learning principles, things like this.</p> <p>15 Q. And these are the types of selection</p> <p>16 criteria that Ethicon is looking for when it's</p> <p>17 deciding who should become a preceptor for its</p> <p>18 courses?</p> <p>19 A. Yes, that's correct.</p> <p>20 Q. Now, Mr. Thornburgh asked you</p> <p>21 questions about the individuals that attended the</p> <p>22 classes, the preceptees.</p> <p>23 A. Yes.</p> <p>24 Q. Now, over and over again</p> <p>25 Mr. Thornburgh asked you questions and stated that</p>	<p>1 MR. THORNBURGH: No.</p> <p>2 MR. COMBS: Okay. So I'll repeat my</p> <p>3 question. Your objection is preserved.</p> <p>4 Q. The individuals that Mr. Thornburgh</p> <p>5 was referring to as unqualified, they would all be</p> <p>6 MD's; is that correct?</p> <p>7 A. That is correct.</p> <p>8 Q. They would have undergone</p> <p>9 residencies; is that correct?</p> <p>10 A. That is correct.</p> <p>11 Q. They would have undergone their</p> <p>12 surgical training?</p> <p>13 A. Absolutely.</p> <p>14 Q. They would be practicing surgeons in</p> <p>15 their field?</p> <p>16 A. Yes.</p> <p>17 Q. Their field would be working in this</p> <p>18 space which would include gynecological or</p> <p>19 urological procedures?</p> <p>20 A. That's correct.</p> <p>21 Q. And they would be board certified?</p> <p>22 A. Yes.</p> <p>23 Q. Now, Mr. Thornburgh asked you</p> <p>24 additional questions -- bear with me, Mr. Pattyson,</p> <p>25 bear with me a second.</p>
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<p>1 Ethicon was training unqualified doctors. Do you</p> <p>2 believe that to be true?</p> <p>3 A. Absolutely not.</p> <p>4 Q. And tell the jury why.</p> <p>5 A. Because --</p> <p>6 MR. THORNBURGH: I want to object as</p> <p>7 a mischaracterization of my questioning.</p> <p>8 A. My complete understanding both as a</p> <p>9 sales rep and as a manager within Prof Ed</p> <p>10 domestically and internationally was that the</p> <p>11 communication was always -- you're calling on OB --</p> <p>12 a board certified OB/GYN's or urologists. They're</p> <p>13 performing these procedures and work with patients</p> <p>14 that have these disease states that they're trying</p> <p>15 to fix. So the surgeons that went to our courses</p> <p>16 were, certainly, qualified.</p> <p>17 Q. So the people that Mr. Thornburgh</p> <p>18 repeatedly called unqualified, they would have been</p> <p>19 MD's; is that correct?</p> <p>20 A. That's correct.</p> <p>21 MR. THORNBURGH: Hold on a second.</p> <p>22 Let me get an objection in.</p> <p>23 Objection mischaracterizes my questioning.</p> <p>24 MR. COMBS: Okay. Do you want to add</p> <p>25 anything more to that?</p>	<p>1 A. Sure.</p> <p>2 MR. COMBS: I'm going to mark another</p> <p>3 exhibit.</p> <p>4 (Deposition Exhibit No. T790, 10/23/06</p> <p>5 letter to EWHU field Sales Force from Price St.</p> <p>6 Hilaire ETH.MESH.00461576 marked Highly Confidential</p> <p>7 Subject to Stipulation and Order of Confidentiality,</p> <p>8 was marked for identification.)</p> <p>9 Q. Mr. Pattyson --</p> <p>10 A. You gave me two copies here.</p> <p>11 Q. You can just tear that off.</p> <p>12 A. (The witness complies.)</p> <p>13 Q. Thanks.</p> <p>14 MR. THORNBURGH: What's the Bates</p> <p>15 number so I have the right --</p> <p>16 MR. COMBS: Yeah, 00461576 and we've</p> <p>17 marked it as Exhibit 790.</p> <p>18 Q. Now, Mr. Pattyson, Mr. Thornburgh</p> <p>19 asked you specific questions in which he stated over</p> <p>20 and over again that prior to the public health</p> <p>21 notice that Ethicon was training unqualified doctors</p> <p>22 and then as a result of the public health notice</p> <p>23 made efforts to start training more qualified</p> <p>24 doctors. Do you remember that?</p> <p>25 MR. THORNBURGH: Objection. That</p>

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<p>1 mischaracterizes my testimony. I would appreciate</p> <p>2 if you would stop mischaracterizing my testimony.</p> <p>3 MR. COMBS: I agree it was your</p> <p>4 testimony. That's my point.</p> <p>5 MR. THORNBURGH: It mischaracterizes</p> <p>6 my questions. So I'd appreciate if you'd stop</p> <p>7 characterizing the way I questioned the witness to</p> <p>8 the jury.</p> <p>9 Q. Now, do you remember those questions?</p> <p>10 A. I do.</p> <p>11 Q. Now --</p> <p>12 MR. THORNBURGH: Objection. Move to</p> <p>13 strike.</p> <p>14 Q. Now, let me direct your attention to</p> <p>15 Exhibit 790. What is that document?</p> <p>16 A. This is a communication from Price</p> <p>17 St. Hilaire speaking to the criteria that we should</p> <p>18 be looking for with surgeons, board certified</p> <p>19 surgeons, who are interested in doing Prolift</p> <p>20 procedures.</p> <p>21 Q. And what was the date on that</p> <p>22 communication from Mr. St. Hilaire?</p> <p>23 A. October 23rd, 2006.</p> <p>24 Q. And can you tell the jury some of the</p> <p>25 factors that Mr. St. Hilaire references?</p>	<p>1 A. I'm sorry. Could you repeat the</p> <p>2 question?</p> <p>3 Q. I mean, is Prof Ed broader than just</p> <p>4 slide decks?</p> <p>5 A. Absolutely. Slide decks are just an</p> <p>6 element to what -- how we define Prof Ed and</p> <p>7 training surgeons and providing training and</p> <p>8 resources for surgeons could literally be an IFU. I</p> <p>9 mean, that is a form of training; a DVD, a webX or</p> <p>10 webinar type of event, conference call could be</p> <p>11 education, it could be awareness, knowledge</p> <p>12 development type training for surgeons and then, of</p> <p>13 course, cadaver labs and preceptorships and all the</p> <p>14 other elements.</p> <p>15 Q. And could you turn your attention,</p> <p>16 please, to Exhibit T748.</p> <p>17 A. T748, yes.</p> <p>18 Q. And I'm going to ask you some</p> <p>19 questions about Slide 4 of that exhibit.</p> <p>20 A. Okay.</p> <p>21 Q. Now, does Slide 4 depict some of the</p> <p>22 Professional Education models that you used?</p> <p>23 A. It does.</p> <p>24 Q. And tell the jury what some of the</p> <p>25 things that are depicted in the continuum of</p>
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<p>1 A. Sure. He speaks to 30 to 50 percent</p> <p>2 of their practice is pelvic floor repair. They</p> <p>3 should be doing, at least, five procedures per</p> <p>4 month, treating Stage 3 and 4 defects, using</p> <p>5 abdominal and vaginal approach to treat pelvic organ</p> <p>6 prolapse. Transobturator slings, are they currently</p> <p>7 performing those, perform or have performed</p> <p>8 sacrospinous ligament fixations, sacrocolpopexies,</p> <p>9 and utilizing graft materials for POP cases.</p> <p>10 Q. And were similar criteria being used</p> <p>11 when you were searching for preceptees that would</p> <p>12 attend the Professional Education training courses</p> <p>13 for the sling products?</p> <p>14 A. Yes. These are similar type of</p> <p>15 criteria. They, obviously, aren't exactly the same.</p> <p>16 They're probably modified. But we had criteria that</p> <p>17 we discussed that was similar.</p> <p>18 Q. And this is years before the public</p> <p>19 health notice?</p> <p>20 A. That's correct.</p> <p>21 Q. Now, Mr. Pattysen, I wanted to direct</p> <p>22 your attention to some general questions about Prof</p> <p>23 Ed.</p> <p>24 Are the only type of Prof Ed procedures that</p> <p>25 use a slide deck?</p>	<p>1 education on Page 4, Slide 4.</p> <p>2 A. Yeah, I just mentioned some of them.</p> <p>3 But you're right, there's more here; webinars,</p> <p>4 classroom, didactic sessions, E-modules, which are a</p> <p>5 form of online training, preceptorships and</p> <p>6 proctorships, which we've discussed, cadaver labs,</p> <p>7 hands-on model training, surgical simulation</p> <p>8 something that we've gotten more into as technology</p> <p>9 has advanced, ask the expert programs,</p> <p>10 ClinicalExpertise.com was a means to provide more</p> <p>11 content to them. It was a website. And Virtual</p> <p>12 World was another one that was used, I believe, as</p> <p>13 technology improved.</p> <p>14 Q. And have some of the types of Prof Ed</p> <p>15 that are depicted on Slide 4 of exhibit T748 have</p> <p>16 been used the entire time that you've been</p> <p>17 associated with Prof Ed?</p> <p>18 A. Absolutely.</p> <p>19 Q. And are some of them new?</p> <p>20 A. Absolutely.</p> <p>21 Q. Yeah. And just, in general terms,</p> <p>22 can you explain to the jury what the development of</p> <p>23 some of those new types of Prof Ed would be?</p> <p>24 A. Yeah. Surgical simulation is one</p> <p>25 that's on here that, I think, we discussed</p>

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<p>1 yesterday. We started investment, gosh, maybe four 2 years ago on a project to invest in surgical 3 simulation. It took four years to complete the 4 project. That would be an example of something that 5 the technology wasn't there. At least, we didn't 6 have that technology at the time.</p> <p>7 Virtual World is a web based application 8 where surgeons can interact. So some of those type 9 I call them newer technology was not available back 10 in the time. But everything else on the slide that 11 I'm looking at right here are programs we've done as 12 long as I've been in Prof Ed, that's for sure.</p> <p>13 Q. Okay. And do you currently work at a 14 facility called the Ethicon Learning Institute?</p> <p>15 A. I do. I work next door to it.</p> <p>16 Q. Okay. Tell the jury what that is.</p> <p>17 A. That is a training center that was 18 added to the Ethicon site or location in Somerville 19 in our headquarters that has a simulation lab and 20 also another hands-on lab where doctors can come and 21 train and learn more about our products. We have a 22 lot of models, actually, folks that aren't familiar 23 with the industry that work for the company come by 24 and see these models, pelvic models and all sorts of 25 things. There's a number of training models there</p>	<p>1 A. Well, this is content that we -- I, 2 honestly, recall going through an annual healthcare 3 compliance training. It looks like just an update 4 or just maybe there was some change in wording or 5 something from compliance they wanted to update the 6 field on. This went out to sales reps and probably 7 many people in the company that interact with 8 healthcare providers on do's and don't's related to 9 various, various things, job responsibilities.</p> <p>10 Q. And does the first bullet point 11 instruct the DM and sales reps to educate themselves 12 on healthcare compliance policies?</p> <p>13 A. It does.</p> <p>14 Q. And does the fourth bullet direct 15 them to only approve on label uses of the products?</p> <p>16 A. That's exactly right.</p> <p>17 Q. And let's go to the second page. 18 Does it have some don't's?</p> <p>19 A. Yeah, the first page is do's and the 20 second page is don't's.</p> <p>21 Q. And can you tell the jury what the 22 fourth bullet point is?</p> <p>23 A. "Don't promote unapproved off label 24 uses of company products."</p> <p>25 Q. And what's the fifth bullet point?</p>
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<p>1 so...</p> <p>2 Q. And including several versions of the 3 simulator that you told us about that you all 4 developed for doctors to use in learning how to work 5 in the pelvic floor space?</p> <p>6 A. Absolutely. The simulator is very 7 cool.</p> <p>8 Q. Now, Mr. Pattyson, do you remember 9 being asked some questions about a healthcare 10 compliance document that you said that you 11 remembered reviewing?</p> <p>12 A. Yeah, I was asked about a lot of 13 documents, yes.</p> <p>14 MR. COMBS: Okay, 791. 15 (Deposition Exhibit No. T791, DM/Sales Rep 16 Do's and Don'ts ETH.MESH.00319128 &amp; 00319129, was 17 marked for identification.)</p> <p>18 Q. Mr. Pattyson, we've marked as 791 a 19 document -- it's identified as ETH.MESH.08319128 20 [sic] and at the bottom it's dated it's -- updated 21 7/8/2009.</p> <p>22 Have you seen that document before?</p> <p>23 A. I have.</p> <p>24 Q. And tell the jury what this document 25 is?</p>	<p>1 A. "Don't equate Professional Education 2 training with product promotion. Review the 3 Professional Education program policy on the HCC 4 portal to understand how sales personnel may be 5 involved in Professional Education training events."</p> <p>6 Q. And can you tell the jury what's the 7 seventh bullet point?</p> <p>8 A. Yes. It says, "Don't use 9 Professional Education training as an incentive to 10 buy or use our products. Training is to increase 11 the safe and effective use of our products."</p> <p>12 Q. Now, Mr. Pattyson, you were asked a 13 number of questions about complication rates. Do 14 you remember that?</p> <p>15 A. I do.</p> <p>16 Q. Okay. Could you turn your attention 17 please to -- strike that. Before we get started... 18 And it was your testimony that it was your 19 understanding that complication rates could be 20 underreported; is that correct?</p> <p>21 A. Yes. As soon as I started seeing 22 complication rates, started in sales but often at 23 Prof Ed events, specifically, I recall many 24 discussions when that slide would come up or we 25 would be sharing that information that the faculty,</p>



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<p>1 typically, presenting would say, now we know this  2 number is underreported because not all complaint --  3 not all adverse events or complications that  4 happened in every operating room in the country get  5 reported. And oftentimes it's reminded that if you  6 have an event, report it, so we can get better data,  7 that's true.  8 Q. And was that understood by the people  9 attending the Professional Education conferences?  10 MR. THORNBURGH: Objection.  11 A. Absolutely.  12 MR. THORNBURGH: It calls for  13 speculation.  14 Q. And how do you know that?  15 MR. THORNBURGH: Based on hearsay.  16 Move to strike.  17 A. I've had conversations with doctors  18 at events and oftentimes if a doctor would say a  19 complication report is low and how can that be right  20 or doctors, if -- I don't know if you've ever been  21 to a Professional Education event.  22 Q. I have not.  23 A. Doctors are competitive people, I  24 think, in general. They're very -- in my  25 experience, they're very -- they're very smart</p>	<p>1 (There is a discussion off the record.)  2 A. Okay, yes. Sorry.  3 Q. Now, I would like to direct your  4 attention to the fourth line on that document.  5 A. Okay.  6 Q. Does that document represent that  7 it's all reported complications?  8 A. Are we looking at the same document?  9 Q. Yes, yes, sir.  10 A. Okay. No, it does not say it's all  11 reported complications here.  12 Q. What does it say?  13 A. It says, "nerve injury."  14 Q. Okay. The fourth line from the top.  15 A. Oh. "Based on 600,000 patients  16 treated worldwide."  17 Q. And above that, does it say it's  18 the --  19 A. "Most significantly reported  20 complications," yes.  21 Q. It doesn't reflect that it's all  22 reported complications, does it?  23 A. No.  24 Q. Now, I'd like to turn your attention  25 to 746.</p>
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<p>1 people and they love to throw questions at the  2 speaker. And so it's hard to get something by on  3 them. So often doctors will make comments about,  4 well, how can that complication be right or  5 challenge it and they talk about it and so it was  6 never a secret at any event that I was ever at.  7 Q. You've literally heard these  8 conversations --  9 MR. THORNBURGH: Can you guys just  10 give me a second a little bit of a second to lodge  11 an objection in between? You guys are, you know,  12 talking over each other almost and I can't lodge an  13 objection.  14 MR. COMBS: Yes, we'll try to do  15 better.  16 MR. THORNBURGH: Objection.  17 MR. COMBS: Okay.  18 MR. THORNBURGH: Move to strike,  19 hearsay, nonresponsive.  20 Q. So that's something that you have  21 witnessed firsthand in Professional Education  22 conferences?  23 A. That's true.  24 Q. Now, Mr. Pattyson, I'd like you to  25 turn your attention to Exhibit T744.</p>	<p>1 A. Okay.  2 Q. And I'm going to ask you a question  3 about the third line of that document.  4 A. It says, "summary of the following  5 reported complications."  6 Q. And that doesn't represent that it's  7 all complications either, does it?  8 A. No.  9 Q. And you were asked questions about  10 discussions about the complications. Were  11 complications ever discussed at a Professional  12 Education event?  13 A. Yes, absolutely.  14 Q. And how do you know that?  15 A. Well, as I mentioned, I've been to  16 many Prof Ed events, cadaver labs, preceptorships.  17 And, as I've also mentioned, doctors like to -- they  18 want to know everything. They ask a lot of  19 questions and complications are always, in my  20 experience, have been brought out by the faculty.  21 But customers always have questions about  22 complications too and potential complications in  23 addition to how well their patients are doing.  24 There's certainly, a lot of discussion about  25 patients hugging them in their offices for those</p>

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<p>1 people that have had good experiences and all the 2 great stuff they've had with the mesh. But 3 complications, absolutely, came up. 4 Q. Now -- 5 MR. THORNBURGH: Okay. 6 Nonresponsive, move to strike, hearsay. 7 MR. COMBS: Okay. 8 Q. I want to ask you some questions 9 about T747. And if you could turn to the 10 complication slide on that, which, I believe, is the 11 fourth page. 12 A. Fourth page. Oh, yeah, got it. 13 Q. Now, Mr. Thornburgh asked you 14 questions about this slide and he asked you -- only 15 asked you questions -- strike that. 16 He asked you questions about the number of 17 complications reported and I want to direct your 18 attention to the second paragraph from the bottom. 19 A. Okay. 20 Q. What does the second paragraph from 21 the bottom reflect? 22 A. It says, Gynecare diligently reports 23 to the Food and Drug Administration or the FDA all 24 serious injuries and deaths in accordance with 25 federal regulations. As of September 26, 2003,</p>	<p>1 or able to look for themselves on government 2 websites. There's certainly, plenty of clinical 3 papers. There are conferences that happen that a 4 lot of surgeons attend. There is numerous outlets 5 for them to receive that information amongst talking 6 with themselves, too, just the same. 7 Q. And were the results of clinical 8 trials and journal articles presented as well? 9 A. Absolutely. 10 MR. THORNBURGH: Objection. 11 Q. Mr. Pattyson, let me ask you to look 12 at Exhibit 748, please. 13 A. I haven't located that one just yet. 14 I have 747 right here. 15 MR. THORNBURGH: I think it's the 16 first one we looked at. 17 A. It's that one. 18 MR. THORNBURGH: Yes, on direct. 19 A. You guys have done this before. 20 Q. Now -- no, that's not it. 21 MR. THORNBURGH: You said 748, right? 22 MR. COMBS: Yeah. Give me a second. 23 I've got the wrong number. 24 Q. Mr. Pattyson, do you remember the 25 questions that Mr. Thornburgh asked you about TVT-O</p>
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<p>1 Gynecare had reported 377 medical device reports or 2 MDR's to the FDA involving complications of surgery. 3 Q. So the internal materials related to 4 Exhibit 747 demonstrate that it was not represented 5 that those were all of the complications that are in 6 the slide that's above that, don't they? 7 MR. THORNBURGH: Objection. 8 A. That's exactly right. 9 Q. And that would be consistent with 10 what you remember occurring at these events, isn't 11 it? 12 A. Yes. Surgeons, like I said, they 13 would talk about this -- it was never a secret in 14 any event that I was at or was it misknown, by the 15 way, outside of Prof Ed events. 16 Q. What are some of the other ways that 17 complications were related to the attendees at 18 these conferences? 19 MR. THORNBURGH: I'm sorry. What was 20 the question? 21 Q. I said, what were some of the other 22 ways in which complications were made known to the 23 attendees at these conferences? 24 MR. THORNBURGH: Objection. 25 A. The doctors were, certainly, eligible</p>	<p>1 in which he asked you a series of questions about 2 what he termed as chronic persistent leg pain from 3 nerve damage, do you remember he asked that 4 yesterday? 5 A. Yes. 6 Q. Now, does the IFU for TVT-O make a 7 reference to transitory leg pain, transient? 8 A. Transient leg pain, yes. 9 Q. Now, does the IFU for TVT-O also talk 10 about the risk of damage to the Obturator bundle? 11 MR. THORNBURGH: Objection. 12 A. Yes, I believe it does. 13 Q. Now, would surgeons know whether 14 damage to the Obturator nerve bundle, whether that 15 could cause chronic or permanent pain? 16 MR. THORNBURGH: Objection. He's not 17 a doctor or an expert in this case. 18 A. My understanding after having 19 attended events that doctors spoke about nerve 20 damage and pain and, yes, I've heard them say that 21 any damage to the nerve could be transient or 22 long-term. 23 MR. THORNBURGH: Hearsay, move to 24 strike. 25 Q. And damage to the Obturator bundle is</p>

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<p>1 something, specifically, referenced in the TVT-O</p> <p>2 IFU, isn't it?</p> <p>3 A. Yes, it is.</p> <p>4 Q. Now, Mr. Thornburgh asked you</p> <p>5 questions about the blind passage involved in TVT-O.</p> <p>6 Do you remember those questions?</p> <p>7 A. I do.</p> <p>8 Q. Now, is it common for surgeons to be</p> <p>9 involved in a procedure that's quote, unquote,</p> <p>10 blind?</p> <p>11 MR. THORNBURGH: Objection.</p> <p>12 A. Yes, I've heard surgeons refer to</p> <p>13 that term in various procedures, yes.</p> <p>14 Q. Is any transvaginal procedure blind?</p> <p>15 MR. THORNBURGH: Objection.</p> <p>16 A. They do refer to that part -- part of</p> <p>17 the procedure as being blind when they're doing -- I</p> <p>18 don't know -- any midurethral sling that I'm aware</p> <p>19 of or most of them have some blind elements to it,</p> <p>20 yes.</p> <p>21 Q. And, in addition to their eyesight,</p> <p>22 do surgeons use other senses during surgery, if you</p> <p>23 know? If you don't know, that's fine.</p> <p>24 A. Yeah, yeah, it's a good question.</p> <p>25 They often -- I hear surgeons say their fingers are</p>	<p>1 Exhibit T752, please.</p> <p>2 A. Okay. You might want to get a clip</p> <p>3 for this one, by the way, so it doesn't get mixed in</p> <p>4 with other ones.</p> <p>5 Thanks. Looking out for the documents.</p> <p>6 Q. Now, that was a Prof Ed presentation</p> <p>7 given by Dr. Grier?</p> <p>8 A. That's correct, to my understanding.</p> <p>9 Q. And let's turn your attention to Page</p> <p>10 3 of the slide deck.</p> <p>11 A. Yes.</p> <p>12 Q. Or strike that.</p> <p>13 Let's go to Page 2 of the slide deck. The</p> <p>14 second slide in that deck, the third bullet point,</p> <p>15 "FDA has issued a public health notice warning about</p> <p>16 the risk of mesh."</p> <p>17 A. Yes, I see that, I'm sorry.</p> <p>18 Q. And so that's a presentation Dr.</p> <p>19 Grier is giving that is being paid for and put on by</p> <p>20 Ethicon?</p> <p>21 A. That is correct.</p> <p>22 Q. And the copy approved materials for</p> <p>23 that slide deck are discussing the public health</p> <p>24 notice?</p> <p>25 A. Yes.</p>
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<p>1 extensions of their eyes or use comments like that</p> <p>2 because they can feel parts of the anatomy. They</p> <p>3 also stress and I know our faculty stress at all the</p> <p>4 courses you need to know the anatomy. Anatomy is</p> <p>5 everything. And so knowing in what they call their</p> <p>6 mind's eye is kind of -- helps them with any parts</p> <p>7 of the anatomy that they can't physically see when</p> <p>8 they're performing procedures.</p> <p>9 MR. THORNBURGH: Objection.</p> <p>10 Q. Now, Mr. Pattyson, do you remember</p> <p>11 when Mr. Thornburgh asked you questions about the</p> <p>12 public health notice and questioned you saying that</p> <p>13 Ethicon had a policy that they were not to disclose</p> <p>14 the public health notice to field sales</p> <p>15 representatives -- strike that.</p> <p>16 Do you remember the questions regarding</p> <p>17 whether the e-mail from Renee Selman regarding the</p> <p>18 disclosure of the public health notice?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Now, are public health notices</p> <p>21 available on the FDA website?</p> <p>22 A. This public health notice that I'm</p> <p>23 aware of, yes, that was made public. It was</p> <p>24 available on the Internet, yes.</p> <p>25 Q. And let me turn your attention to</p>	<p>1 Q. And let's go to the next page. Is</p> <p>2 this title of that slide FDA public health</p> <p>3 notification 10/20/2008?</p> <p>4 A. That's correct.</p> <p>5 Q. And, again, this would be a copy</p> <p>6 approved slide deck used in a presentation paid for</p> <p>7 by Ethicon?</p> <p>8 A. Yes.</p> <p>9 Q. Used to teach surgeons?</p> <p>10 A. Yes.</p> <p>11 Q. And about a third of the way down on</p> <p>12 that slide, does it talk about recommendations made</p> <p>13 by the FDA in the public health notice?</p> <p>14 A. I'm sorry, could you repeat...</p> <p>15 Q. A couple of lines down on that slide,</p> <p>16 does it have an underlined section that states, "FDA</p> <p>17 recommendation"?</p> <p>18 A. Yes, it does.</p> <p>19 Q. Is this a recommendation from the</p> <p>20 public health notice?</p> <p>21 A. That's what the slide says, yes.</p> <p>22 Q. And could you turn to Page 4, the</p> <p>23 next page.</p> <p>24 A. Yes.</p> <p>25 Q. Does it talk about the implications</p>

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<p>1 of the FDA public health notice?</p> <p>2 A. Yes, it does.</p> <p>3 Q. And so does the presentation that Dr.</p> <p>4 Grier was being compensated to give on behalf of</p> <p>5 Ethicon, Slides 2, 3 and 4 of that all discuss the</p> <p>6 FDA public health notice?</p> <p>7 A. That's true.</p> <p>8 Q. Were you at Professional Education</p> <p>9 events after the FDA public health notice in which</p> <p>10 it was discussed?</p> <p>11 A. Yes, I was, sometimes not even in</p> <p>12 this country.</p> <p>13 Q. In areas in which the FDA wouldn't</p> <p>14 even be the governing regulatory body?</p> <p>15 A. Correct.</p> <p>16 Q. And -- strike that.</p> <p>17 Now, Mr. Pattyson, you were asked questions</p> <p>18 about whether the function of Prof Ed was to market</p> <p>19 Ethicon's products. Do you remember that?</p> <p>20 A. Yes.</p> <p>21 Q. And my understanding of your</p> <p>22 testimony was that good training might cause</p> <p>23 increased sales, but that wasn't the purpose of</p> <p>24 Professional Education; is that a fair</p> <p>25 understanding?</p>	<p>1 A. I do remember a lot of associations</p> <p>2 made with.</p> <p>3 Q. Okay. Could you read -- what's the</p> <p>4 top line of this document, or I'm sorry, the second</p> <p>5 line of the document. Does it say "vision"?</p> <p>6 A. Yes, it does.</p> <p>7 Q. And can you read to the jury what</p> <p>8 that line, which is the second line of the document,</p> <p>9 what it says?</p> <p>10 A. Yeah. And the way this document</p> <p>11 reads is, by the way, a cascading down. So the</p> <p>12 vision is to improve patient's lives by being the</p> <p>13 clear and trusted global leader in pelvic health</p> <p>14 solutions.</p> <p>15 Q. And that was the vision behind the</p> <p>16 key opinion leader's strategy that's Exhibit T751,</p> <p>17 wasn't it?</p> <p>18 MR. THORNBURGH: Objection.</p> <p>19 A. I think that was, absolutely.</p> <p>20 Q. Now, could you turn your attention</p> <p>21 please to Page 9.</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And that's -- at the top it's,</p> <p>24 "incontinence UroGyn, Gyn"?</p> <p>25 A. Yes.</p>
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<p>1 A. Absolutely.</p> <p>2 Q. Now, you were asked questions about</p> <p>3 Exhibit 751. Could you pull that out.</p> <p>4 A. 751?</p> <p>5 Q. Yes, sir.</p> <p>6 A. Okay. Is this the one?</p> <p>7 Q. Yes, sir.</p> <p>8 And, if you could, if you could turn to the</p> <p>9 sixth page of that. It's the one that's at the top</p> <p>10 it's "Ethicon Women's Health and Urology."</p> <p>11 A. Sixth page?</p> <p>12 Q. Yes, sir.</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Now, do you remember</p> <p>15 Mr. Thornburgh asking you questions about this and</p> <p>16 he asked you many questions about the objectives and</p> <p>17 the --</p> <p>18 MR. COMBS: I'll paraphrase and, Mr.</p> <p>19 Thornburgh, you're free to object.</p> <p>20 Q. But, basically, he said to you over</p> <p>21 and over again that the purpose of this document was</p> <p>22 that Professional Education was to sell products.</p> <p>23 Do you remember that?</p> <p>24 MR. THORNBURGH: Objection,</p> <p>25 mischaracterizes my questions.</p>	<p>1 Q. Now, do you remember questions you</p> <p>2 were asked about the Professional Education faculty</p> <p>3 that are listed there, the top 10 that really list</p> <p>4 13?</p> <p>5 A. That's correct.</p> <p>6 Q. Okay. Remember just a few minutes</p> <p>7 ago we talked about some of the things that were set</p> <p>8 forth as criteria used to select global faculty?</p> <p>9 A. Yes.</p> <p>10 Q. In your opinion, do these people that</p> <p>11 are in this list, do they meet this criteria?</p> <p>12 A. Absolutely.</p> <p>13 Q. And tell the jury why.</p> <p>14 A. Well --</p> <p>15 MR. THORNBURGH: Objection.</p> <p>16 Speculation.</p> <p>17 A. -- a lot of the doctors listed here</p> <p>18 have advanced training, fellowship training.</p> <p>19 Q. Okay. Well, let me stop you just for</p> <p>20 a second. Mr. Thornburgh has objected.</p> <p>21 MR. THORNBURGH: Speculation, lack of</p> <p>22 foundation. Go ahead.</p> <p>23 MR. COMBS: Speculation and lack of</p> <p>24 foundation.</p> <p>25 Q. Do you know these physicians? Do you</p>

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<p>1 know any of them?</p> <p>2 A. I know a lot of them, yeah. I know</p> <p>3 most of them.</p> <p>4 Q. Tell the jury which ones you know on</p> <p>5 this list.</p> <p>6 A. I know Dr. Lucente, Dr. Sepulveda.</p> <p>7 Dr. Brown doesn't ring a bell. I know Dr. Raders,</p> <p>8 Dr. Rogers, Dr. Aguirre, Dr. Hsieh, Dr. Rosenblatt.</p> <p>9 I've met Dr. Mendelovici, Dr. Karram, Van Drie,</p> <p>10 Khandwala and Michael Karram. I know them all.</p> <p>11 Q. So you know everybody on this list</p> <p>12 except Mr. -- Dr. Brown?</p> <p>13 A. That's correct.</p> <p>14 Q. Okay. Now, for the 12 of the 13 that</p> <p>15 you know, do they meet the criteria for selection</p> <p>16 for global faculty?</p> <p>17 MR. THORNBURGH: Objection.</p> <p>18 A. Absolutely.</p> <p>19 Q. Tell the jury why, why you think</p> <p>20 that.</p> <p>21 THE WITNESS: Really?</p> <p>22 A. Pardon me. I think that the faculty</p> <p>23 names listed here, the ones I know, embody probably</p> <p>24 the majority of the criteria that were listed on</p> <p>25 that slide that we talked about. You know,</p>	<p>1 A. Yes.</p> <p>2 Q. And have you heard Dr. Grier tell the</p> <p>3 audience that is he a paid consultant from Ethicon?</p> <p>4 A. Absolutely.</p> <p>5 MR. THORNBURGH: Objection.</p> <p>6 Q. Tell what the jury what he says.</p> <p>7 MR. THORNBURGH: Hearsay.</p> <p>8 A. Can you repeat the question?</p> <p>9 Q. Tell the jury what you've heard Dr.</p> <p>10 Grier say.</p> <p>11 A. He says, Now I'm a paid consultant of</p> <p>12 Ethicon or Gynecare.</p> <p>13 Q. And you've heard that firsthand?</p> <p>14 A. Yes, multiple times.</p> <p>15 MR. THORNBURGH: Move to strike,</p> <p>16 hearsay, multiple hearsay.</p> <p>17 Q. Now, Mr. Thornburgh stopped</p> <p>18 questioning you on Page 31 of that document. He</p> <p>19 said he wasn't going to -- strike that -- Page 30.</p> <p>20 But I want you to turn to the end of that document,</p> <p>21 the last five pages of that document.</p> <p>22 A. Yes.</p> <p>23 Q. Does that have the references and</p> <p>24 support for Dr. Grier's presentation?</p> <p>25 A. Yes, it does. As well as the</p>
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<p>1 experience training, tons of experience with our</p> <p>2 products and other procedures similar to</p> <p>3 anti-incontinence procedure and pelvic floor</p> <p>4 procedures. Some of them coming from teaching</p> <p>5 institutions. Some of them are fellowship trained.</p> <p>6 Some of them are published. This is what I would</p> <p>7 call an elite group of very experienced surgeons.</p> <p>8 Q. Now -- okay. Let me ask you another</p> <p>9 question about Exhibit 752 and we were looking at a</p> <p>10 minute ago Dr. Grier's presentation.</p> <p>11 A. Okay.</p> <p>12 Q. Now, Mr. Thornburgh asked you whether</p> <p>13 on each page of this document -- strike that.</p> <p>14 Let's take a step back.</p> <p>15 Did you author this document?</p> <p>16 A. No.</p> <p>17 Q. And you didn't present this document,</p> <p>18 did you?</p> <p>19 A. No, I did not.</p> <p>20 Q. I mean, it was Dr. Grier, wasn't it?</p> <p>21 A. His name is on it and this looks like</p> <p>22 something he would have definitely presented.</p> <p>23 Q. Now, you've been in Professional</p> <p>24 Education conferences where Dr. Grier has been the</p> <p>25 preceptor, haven't you?</p>	<p>1 essential product information for TVT which comes</p> <p>2 from our labeling but...</p> <p>3 Q. And could -- and strike that.</p> <p>4 Were preceptees, could they obtain copies of</p> <p>5 the support for Dr. Grier's presentation?</p> <p>6 A. Absolutely.</p> <p>7 Q. And, in fact, throughout the entire</p> <p>8 presentation, it's footnoted; isn't it?</p> <p>9 MR. THORNBURGH: Objection.</p> <p>10 A. I'm sorry. Yeah. Oh, there's</p> <p>11 footnotes and references back to these clinical</p> <p>12 articles or abstracts.</p> <p>13 Q. Yes.</p> <p>14 A. Yes.</p> <p>15 Q. And the preceptees can obtain any of</p> <p>16 these references they want, can't they?</p> <p>17 A. They can more than likely find them</p> <p>18 on their own anyhow, but they can request us, and if</p> <p>19 they're copy approved, we can provide them.</p> <p>20 Q. And, if not, they can just get them,</p> <p>21 get them on the Internet?</p> <p>22 A. A lot of this information is in the</p> <p>23 public domain, yes.</p> <p>24 Q. Now, you talked earlier about you've</p> <p>25 been there when Dr. Grier has told the audience that</p>

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<p>1 he's a paid consultant.</p> <p>2 Have you heard Dr. Lucente tell the audience</p> <p>3 that?</p> <p>4 A. Yes.</p> <p>5 Q. Have you heard Dr. Rader tell the</p> <p>6 audience that?</p> <p>7 A. Yes.</p> <p>8 MR. THORNBURGH: Do I have a standing</p> <p>9 objection for hearsay?</p> <p>10 MR. COMBS: Yes, of course.</p> <p>11 Q. Now, Mr. Pattyson, Miss Wilson asked</p> <p>12 you some questions about an employment warning. Do</p> <p>13 you remember that?</p> <p>14 A. I do.</p> <p>15 Q. And I just want to make it clear, it</p> <p>16 was your testimony that the document that's</p> <p>17 referenced in that employment warning was a document</p> <p>18 that was available on the Intranet of the company?</p> <p>19 A. Absolutely.</p> <p>20 Q. That's the document that you asked</p> <p>21 the secretary to get?</p> <p>22 A. Yeah. This is a document that was</p> <p>23 available before last year, but it's a list of</p> <p>24 guideline questions that are -- they go into</p> <p>25 categories that line up with the strategic</p>	<p>1 Stipulation and Order of Confidentiality, was marked</p> <p>2 for identification.)</p> <p>3 Q. Mr. Pattyson, let me direct your</p> <p>4 attention to 792.</p> <p>5 A. Okay.</p> <p>6 Q. And what is that?</p> <p>7 A. This is a rather lengthy slide deck</p> <p>8 for TVT. It says, Professional Education slides.</p> <p>9 MR. THORNBURGH: I'm sorry. Do you</p> <p>10 have the Bates for this?</p> <p>11 MR. ROSENBLATT: 6/20/2001.</p> <p>12 MR. COMBS: And what was that date,</p> <p>13 Paul?</p> <p>14 MR. ROSENBLATT: 6/20/2001.</p> <p>15 Q. Yeah. And, Mr. Pattyson, I'll</p> <p>16 represent to that you this is a slide deck that has</p> <p>17 been produced to the Plaintiff and was copy approved</p> <p>18 on June 20, 2001.</p> <p>19 Now, when you were doing your sales work,</p> <p>20 did you ever attend Professional Education</p> <p>21 conferences on TVT?</p> <p>22 A. Yes.</p> <p>23 Q. Now, at those conferences that you</p> <p>24 attended, were complications related to TVT</p> <p>25 discussed?</p>
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<p>1 imperatives of the company. So they're just a list</p> <p>2 of questions. You can use them or not use them in</p> <p>3 any interview situation. But I've given interviews</p> <p>4 for the company and I've taken interviews or</p> <p>5 interviewed and these would be the questions that</p> <p>6 are typically given. So it's just a set of</p> <p>7 questions.</p> <p>8 Q. And if you wanted to -- when you went</p> <p>9 back to your office tomorrow and you got on your</p> <p>10 computer, you could log on and you could download</p> <p>11 them from the Intranet?</p> <p>12 A. Yes.</p> <p>13 Q. And you could have at the time, if</p> <p>14 you were able to find them?</p> <p>15 A. Yes. This was a new set of questions</p> <p>16 and, like I may have testified before, some of our</p> <p>17 Intranet sites are not easy to navigate and find</p> <p>18 documents when you look for them. So that</p> <p>19 particular one I couldn't find.</p> <p>20 (Deposition Exhibit No. T792, Gynecare TVT</p> <p>21 Tension-Free Support for Incontinence Perilesional</p> <p>22 Education Slides ETH.MESH.05795421 to 05795508</p> <p>23 Gynecare TVT Tension-Free Support for Incontinence</p> <p>24 Perilesional Education Slides ETH.MESH.05795421 to</p> <p>25 05795508 marked Highly Confidential Subject to</p>	<p>1 A. Absolutely.</p> <p>2 Q. Now, I'd like to turn your attention</p> <p>3 to 63 of that slide deck.</p> <p>4 A. Okay.</p> <p>5 Q. Did you attend conferences in which</p> <p>6 it was discussed how to minimize risk and to manage</p> <p>7 risk from the products?</p> <p>8 A. Yes.</p> <p>9 Q. Did you attend conferences in which</p> <p>10 as on Page 65 vascular injury was discussed?</p> <p>11 A. Yes.</p> <p>12 Q. Conferences where urethral erosion</p> <p>13 was discussed?</p> <p>14 A. Yes.</p> <p>15 Q. Conferences where vaginal extrusion</p> <p>16 of mesh was discussed?</p> <p>17 A. Yes.</p> <p>18 Q. Bowel perforation was discussed?</p> <p>19 A. Yep.</p> <p>20 Q. Urinary retention was discussed?</p> <p>21 A. Yeah.</p> <p>22 Q. De novo urgency was discussed?</p> <p>23 A. It was.</p> <p>24 Q. Bladder perforation was discussed?</p> <p>25 A. Yes.</p>

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<p>1 Q. Vaginal perforation was discussed?</p> <p>2 A. Yes.</p> <p>3 Q. Urethral injury was discussed?</p> <p>4 A. Yes.</p> <p>5 Q. Vaginal bleeding and retropubic</p> <p>6 hematoma?</p> <p>7 A. Yes.</p> <p>8 Q. Infection?</p> <p>9 A. Wound infection, yes.</p> <p>10 Q. Urinary tract infection?</p> <p>11 A. Yes.</p> <p>12 Q. All of these potential complications</p> <p>13 were made known to surgeons at conferences that you</p> <p>14 attended?</p> <p>15 A. That is correct.</p> <p>16 MR. COMBS: Let me take a second.</p> <p>17 I'm probably pretty close to being done here.</p> <p>18 THE VIDEOGRAPHER: The time is now</p> <p>19 4:49. We're going off the record.</p> <p>20 (Recess taken 4:49 to 4:54 p.m.)</p> <p>21 THE VIDEOGRAPHER: The time is now</p> <p>22 4:54. We are back on the record.</p> <p>23 Q. Mr. Pattyson, do you enjoy working at</p> <p>24 Ethicon?</p> <p>25 A. Absolutely.</p>	<p>1 (Recess taken 4:55 to 4:57 p.m.)</p> <p>2 THE VIDEOGRAPHER: The time is now</p> <p>3 4:57. We are back on the record.</p> <p>4 EXAMINATION BY MR. THORNBURGH:</p> <p>5 Q. Okay. Mr. Pattyson, I'm going to try</p> <p>6 to get us out of here as quick as I can. I'm going</p> <p>7 to work a little backwards here, okay. I'm going to</p> <p>8 look at -- let's look at 792.</p> <p>9 A. Okay.</p> <p>10 Q. Okay. And that was the exhibit that</p> <p>11 defense counsel discussed with you regarding the TVT</p> <p>12 device, right?</p> <p>13 A. That's correct.</p> <p>14 Q. Okay. And I asked defense counsel</p> <p>15 what the document date for this -- or I'm sorry.</p> <p>16 On the letter or list or index that we</p> <p>17 looked at previously, when you were deposed by my</p> <p>18 counsel, there was a list of copy approved</p> <p>19 Professional Ed material and this was listed on that</p> <p>20 list as No. 5 and it's got a copy approval date of</p> <p>21 June 20th, 2001.</p> <p>22 You weren't working in sales or in</p> <p>23 Professional Education at that time, right?</p> <p>24 A. No.</p> <p>25 Q. In fact, that was a couple of years</p>
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<p>1 Q. And did you enjoy the work that you</p> <p>2 did while you were working in Prof Ed at Ethicon?</p> <p>3 A. Love it. Loved it.</p> <p>4 Q. Why?</p> <p>5 A. Just it's great to see surgeons</p> <p>6 working together to help patients. And, to almost</p> <p>7 every event I ever attended, the amount of thank</p> <p>8 you's you get walking out the door for this type of</p> <p>9 educational event, some refer to it as better than</p> <p>10 what they received in medical school. I mean, they</p> <p>11 were so proud of it. They really love the level of</p> <p>12 education that we provided on our cost. I mean,</p> <p>13 they were just very, very appreciative and to me</p> <p>14 that made me happy just to know that we could do</p> <p>15 that for them.</p> <p>16 MR. COMBS: No further questions.</p> <p>17 MR. THORNBURGH: I have some</p> <p>18 follow-up questions, but I'll try to get done before</p> <p>19 this tape runs out, which I think is less than</p> <p>20 20 minutes.</p> <p>21 Can we just go off the record for one</p> <p>22 second. I didn't realize you were going to be that</p> <p>23 quick.</p> <p>24 THE VIDEOGRAPHER: The time is 4:55.</p> <p>25 We're going off the record.</p>	<p>1 before you started working in the Professional Ed</p> <p>2 department?</p> <p>3 A. It was before Professional Education,</p> <p>4 but in 2002 I was in sales. So I might have seen</p> <p>5 this tech deck.</p> <p>6 Q. Well, this was before you were in</p> <p>7 sales, June 20th of 2001, correct?</p> <p>8 A. June, yes, that's correct.</p> <p>9 Q. Do you have a specific recollection</p> <p>10 of seeing this slide?</p> <p>11 A. I've seen this slide deck before,</p> <p>12 yes. I don't know, specifically, when and where.</p> <p>13 Q. Because you just said, I may have</p> <p>14 seen this slide?</p> <p>15 A. I said, I may have seen this slide at</p> <p>16 a Prof Ed event, but I know I've seen this slide</p> <p>17 deck before, yes.</p> <p>18 Q. Where would that information,</p> <p>19 information of where this Professional Education</p> <p>20 piece would have been used, have been located?</p> <p>21 A. I don't know.</p> <p>22 Q. Other than taking your word for it,</p> <p>23 how can I find out where this piece was used?</p> <p>24 A. You'd have to check with copy</p> <p>25 approval or someone else in our department that</p>

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<p>1 issued these materials.</p> <p>2 Q. This was before you were at -- in</p> <p>3 Professional Ed, right?</p> <p>4 A. Yes. The timeframe that you</p> <p>5 referenced for this being copy approved, yes.</p> <p>6 Q. You started at Professional Education</p> <p>7 in 2006?</p> <p>8 A. That's correct.</p> <p>9 Q. So this was five years before you --</p> <p>10 this is a Professional Education piece that has a</p> <p>11 copy approval date of five years prior to you</p> <p>12 starting in the Professional Education department?</p> <p>13 A. That's correct.</p> <p>14 Q. Right?</p> <p>15 Do you know when this piece was -- when they</p> <p>16 stopped using this piece?</p> <p>17 A. No, I don't.</p> <p>18 Q. And if you turn to Page 77 of this</p> <p>19 document, of this exhibit.</p> <p>20 MR. COMBS: You said 77?</p> <p>21 MR. THORNBURGH: I'm sorry 77, but</p> <p>22 the Bates No. ends in 5497.</p> <p>23 A. Yes.</p> <p>24 Q. And there's the complication data</p> <p>25 again, right?</p>	<p>1 A. It doesn't have the rate. But, yes,</p> <p>2 I would imagine that would be.</p> <p>3 Q. But we know, you know, you've</p> <p>4 testified that this complication -- that these</p> <p>5 complication statements that were used by Ethicon to</p> <p>6 promote the safety of its products were</p> <p>7 underreported events, right?</p> <p>8 A. I know that we can only report what</p> <p>9 gets reported to us and we were told to promote --</p> <p>10 I'm sorry, not promote. We were told to report any</p> <p>11 event that we know of as are our doctors and</p> <p>12 surgeons -- a lot of ways that complications get</p> <p>13 reported so, yes.</p> <p>14 Q. You knew it was underreporting,</p> <p>15 right?</p> <p>16 A. (No response.)</p> <p>17 Q. It's not an accurate depiction of the</p> <p>18 actual rate of complications, right?</p> <p>19 A. That was discussed at our events,</p> <p>20 yes.</p> <p>21 Q. That's not my question.</p> <p>22 A. What is your question?</p> <p>23 Q. My question is, you understood,</p> <p>24 Ethicon understood, you understood when you were</p> <p>25 working for them and you understand today that by</p>
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<p>1 A. Correct.</p> <p>2 Q. And this complication reports or the</p> <p>3 complication reported in this piece, again, say as</p> <p>4 it relates to urethral erosions, that there are only</p> <p>5 5 of a 150,000 -- 5 complaints of only 150 -- sorry.</p> <p>6 There are only 5 complaints of 150,000</p> <p>7 patients or over 150,000 patients, right?</p> <p>8 A. Yes, of the most seriously reported</p> <p>9 complications. That's what that numbers says.</p> <p>10 Q. So, if you would take 5 patients over</p> <p>11 150,000 patients, the complication rate would appear</p> <p>12 to be very low, right?</p> <p>13 A. I believe that's how they divide</p> <p>14 that, yes.</p> <p>15 Q. And that would be an underreported</p> <p>16 complication rate as we discussed earlier?</p> <p>17 MR. COMBS: Objection to form.</p> <p>18 Q. Right?</p> <p>19 A. Yes. The numbers that we talked</p> <p>20 about at meetings were --</p> <p>21 Q. That's not my question.</p> <p>22 My question here is, on this piece, Exhibit</p> <p>23 No. 792, where it's showing complication rates or a</p> <p>24 complication statement, 5 over a 150,000 patients</p> <p>25 would be a very low complication rate, right?</p>	<p>1 relying on the complication statements that you're</p> <p>2 relying on inaccurate information?</p> <p>3 MR. COMBS: Object to the form.</p> <p>4 Q. Right?</p> <p>5 A. (No response.)</p> <p>6 Q. "Inaccurate" in terms that it doesn't</p> <p>7 provide accurate information about the actual risk</p> <p>8 of erosion, right?</p> <p>9 A. That's not -- that was not my job to</p> <p>10 interpret risk and complication data from our</p> <p>11 department.</p> <p>12 Q. You knew it was low, you knew it was</p> <p>13 reported -- what they're reporting here is not -- is</p> <p>14 an underreporting of complications? You've</p> <p>15 testified to that throughout the last day and a</p> <p>16 half. So yes or no?</p> <p>17 A. Yes, I understood that at events</p> <p>18 these were low.</p> <p>19 Q. That's all I'm asking.</p> <p>20 A. Yes.</p> <p>21 MR. THORNBURGH: I'm going to mark as</p> <p>22 Exhibit No. 794 -- strike that. I'm not going to</p> <p>23 mark that. I may mark that.</p> <p>24 Q. Okay. Alright. Exhibit No. 791,</p> <p>25 which was the do's and don't's, and that was the HCC</p>

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<p>1 document that you discussed with defense counsel?</p> <p>2 A. That's correct.</p> <p>3 Q. Okay. And when I questioned you</p> <p>4 about what documents you reviewed in preparation for</p> <p>5 your deposition that refreshed your recollection,</p> <p>6 you said that you reviewed -- I think my question</p> <p>7 was, what documents did you review from your file</p> <p>8 that refreshed your recollection concerning -- you</p> <p>9 know, in preparation for the deposition, and you</p> <p>10 said the do's and don't's HCC form. Do you remember</p> <p>11 that?</p> <p>12 A. Vaguely.</p> <p>13 Q. Okay. Well, is that the exhibit that</p> <p>14 refreshed your recollection, is that the exhibit you</p> <p>15 looked at in preparation for your deposition that</p> <p>16 refreshed your recollection?</p> <p>17 A. I may have seen those from before. I</p> <p>18 looked at a few documents in preparation, yes.</p> <p>19 Q. And that was documents from your</p> <p>20 custodial file, from your file?</p> <p>21 A. I don't know where all the documents</p> <p>22 were produced from, all the documents that I've</p> <p>23 looked at, I don't know where they're from.</p> <p>24 Q. Where did you get the do's and</p> <p>25 don't's, how did you come about to receive that</p>	<p>1 48 hours and then some.</p> <p>2 Q. Who is Scott Holdsworth?</p> <p>3 A. I don't know.</p> <p>4 Q. You don't know who Scott Holdsworth</p> <p>5 is?</p> <p>6 A. No.</p> <p>7 Q. Okay. Well, that's who is --</p> <p>8 according to Crovella, that's the custodial</p> <p>9 file that Exhibit 791 came from.</p> <p>10 MR. COMBS: Object to the form.</p> <p>11 Q. And you don't even know who that is,</p> <p>12 right?</p> <p>13 A. No.</p> <p>14 Q. That's not your file, right?</p> <p>15 A. I've seen this document before, yes.</p> <p>16 Q. But that's not my question.</p> <p>17 Scott Holdsworth isn't holding onto your</p> <p>18 custodial file within his files, right?</p> <p>19 A. I have no idea.</p> <p>20 Q. You don't know who that is, right?</p> <p>21 A. No, I don't.</p> <p>22 Q. And this was an HCC document that was</p> <p>23 given to district managers and sales reps, right?</p> <p>24 A. I've seen this document before. I</p> <p>25 don't know who all was on the distribution list.</p>
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<p>1 document to look at it and say, you know what, that</p> <p>2 was in my file?</p> <p>3 A. I don't know that I said that.</p> <p>4 Q. When I asked you on the first day</p> <p>5 what things -- what documents did you look at in</p> <p>6 preparation for your deposition, you said, the do's</p> <p>7 and don't's HCC form, right?</p> <p>8 A. I don't recall, exactly, what I said.</p> <p>9 I know there's been a lot of training and documents</p> <p>10 we discussed that we get from compliance and some of</p> <p>11 them have do's and don't's, some of them have other</p> <p>12 things as well.</p> <p>13 Q. The question that you responded to</p> <p>14 was, what documents did you review that refreshed</p> <p>15 your recollection and you said the HC -- or you said</p> <p>16 a number of HCC documents.</p> <p>17 A. Yes.</p> <p>18 Q. And I said which ones. And you said,</p> <p>19 the do's and don't's.</p> <p>20 A. I don't recall, exactly, what I said.</p> <p>21 I may have said that.</p> <p>22 Q. Did you look at this document in</p> <p>23 preparation for your deposition?</p> <p>24 A. I don't recall. I may have seen</p> <p>25 this. I've seen a lot of documents over the last</p>	<p>1 But I recognize it. And it's actually consistent</p> <p>2 with guidelines and training that we go through on</p> <p>3 an annual basis and throughout the year so...</p> <p>4 Q. Okay. Well --</p> <p>5 A. I've seen this document before the</p> <p>6 last few days. I can, certainly, tell you that.</p> <p>7 Q. Right.</p> <p>8 THE VIDEOGRAPHER: Ten minutes on</p> <p>9 tape.</p> <p>10 MR. THORNBURGH: Alright.</p> <p>11 Q. Defense counsel asked you questions</p> <p>12 about Exhibit No. 789.</p> <p>13 A. Okay. Yes.</p> <p>14 Q. And that didn't come from your files,</p> <p>15 right, that document?</p> <p>16 A. I, honestly, don't know where the</p> <p>17 document came from.</p> <p>18 Q. Okay. The document Bates date on</p> <p>19 that is September 26, 2003. Assume with me that</p> <p>20 that's what our database shows, okay?</p> <p>21 A. (No response.)</p> <p>22 Q. That would have been prior to your</p> <p>23 involvement with Professional Education, right?</p> <p>24 A. 2003 --</p> <p>25 MR. COMBS: Yeah, object to the form.</p>

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<p>1 A. -- was prior to my -- Prof Ed, yes</p> <p>2 that's correct.</p> <p>3 MR. THORNBURGH: Do you guys have a</p> <p>4 different date for that?</p> <p>5 MR. COMBS: Well, it -- you know, I'm</p> <p>6 just looking, for example internally it talks about</p> <p>7 2010. So I just don't think it's 2003.</p> <p>8 MR. THORNBURGH: You know what, I may</p> <p>9 have wrote that down wrong; 2010, so I apologize.</p> <p>10 So thank you for the correction.</p> <p>11 Q. So this would have been, according to</p> <p>12 defense counsel's representation, a document that</p> <p>13 would have been created sometime in 2010?</p> <p>14 A. I presume so. I've seen similar</p> <p>15 documents with this type of criteria throughout Prof</p> <p>16 Ed in various ways. I don't know when this deck was</p> <p>17 made, exactly. There is no date on it.</p> <p>18 Q. Okay. And so 2010 would have been</p> <p>19 some -- what four years after you started with the</p> <p>20 Professional Education department?</p> <p>21 A. That's correct.</p> <p>22 Q. And did you help create this</p> <p>23 document?</p> <p>24 A. Not that I'm aware of, no.</p> <p>25 Q. Do you know who commercial operations</p>	<p>1 Q. And this was a letter regarding some</p> <p>2 training discussion about the POP procedures, right?</p> <p>3 A. Pelvic organ prolapse, yes.</p> <p>4 Q. Defense counsel didn't come in here</p> <p>5 and show you a single document regarding, you know</p> <p>6 the training requirements regarding TVT?</p> <p>7 MR. COMBS: Object to the form.</p> <p>8 A. We talked about training criteria for</p> <p>9 all courses.</p> <p>10 Q. Well, is there a single -- was there</p> <p>11 a single document that was marked as an exhibit by</p> <p>12 defense counsel that laid out as the Prolift POP</p> <p>13 Exhibit 790 lays out regarding the potential</p> <p>14 training candidates and the criteria that those</p> <p>15 candidates should have before they begin training on</p> <p>16 the Gynecare Prolift materials?</p> <p>17 A. So could you repeat the question?</p> <p>18 Q. Yeah. Did defense counsel bring in a</p> <p>19 document like 790 that was related to the TVT</p> <p>20 products?</p> <p>21 MR. COMBS: Object to the form.</p> <p>22 Q. Defense counsel didn't, did he?</p> <p>23 A. No. This document here talks about</p> <p>24 Prolift, correct.</p> <p>25 Q. So this document that says, your</p>
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<p>1 driving commercial excellence is?</p> <p>2 A. I'm sorry?</p> <p>3 Q. It's listed on the bottom right-hand</p> <p>4 corner?</p> <p>5 A. Do I know what that is?</p> <p>6 Q. Yes. Do you know what that means; is</p> <p>7 that a company or...</p> <p>8 A. No. That was -- commercial</p> <p>9 operations was the previous name for our -- a larger</p> <p>10 department that Prof Ed fell under within the</p> <p>11 organization.</p> <p>12 Q. Okay. And we talked about</p> <p>13 Exhibit 790.</p> <p>14 A. Yes.</p> <p>15 Q. I think it was this document and this</p> <p>16 document is regarding a letter from Price St.</p> <p>17 Hilaire?</p> <p>18 A. Price St. Hilaire, yes.</p> <p>19 Q. Okay. And he was product director</p> <p>20 for pelvic floor repair?</p> <p>21 A. That's correct.</p> <p>22 Q. And who was product director, is that</p> <p>23 the person in marketing?</p> <p>24 A. He worked in the marketing</p> <p>25 department, yes.</p>	<p>1 potential training candidates should fit all the</p> <p>2 following criteria and it says 30 to 50 of your</p> <p>3 practice is pelvic floor repair and it goes on 1</p> <p>4 through 6, those are identified as criteria in this</p> <p>5 letter for POP repair device Prolift, right?</p> <p>6 A. Yeah, this is a memo talking about</p> <p>7 the criteria candidates should be looking for to --</p> <p>8 that go to our training.</p> <p>9 Q. Defense counsel didn't bring in with</p> <p>10 him a single exhibit that said, here are the</p> <p>11 criteria for training candidates related to the TVT</p> <p>12 products, right?</p> <p>13 A. I did not see that here today, no.</p> <p>14 Q. 748, can you look at that really</p> <p>15 quick and if you go to Slide 4.</p> <p>16 And what was the date on that Document 748?</p> <p>17 (There is a discussion off the record.)</p> <p>18 A. I'm sorry, I'm not locating it.</p> <p>19 Q. You're not locating it?</p> <p>20 A. 748, here I found it.</p> <p>21 Q. Okay. Just real quick, if you go to</p> <p>22 Slide 4. You talked about some Professional</p> <p>23 Education models that were listed in this</p> <p>24 Professional Education plan, right?</p> <p>25 A. Yes.</p>

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<p>1 Q. Okay. And you said that some of</p> <p>2 those -- you looked at that slide and you listed</p> <p>3 webinars, E-modules, preceptors, proctorship models,</p> <p>4 surgical simulation, clinical expertise and Virtual</p> <p>5 World, right?</p> <p>6 A. Yes.</p> <p>7 Q. You said some of the new technologies</p> <p>8 were newer and they weren't around previously?</p> <p>9 A. That's correct.</p> <p>10 Q. So the things that would have been</p> <p>11 around before the better technologies would have</p> <p>12 been the preceptorship, right?</p> <p>13 A. And proctorships, yes.</p> <p>14 Q. So I want you to circle what was</p> <p>15 around prior to the new technologies.</p> <p>16 MR. COMBS: I object to the form.</p> <p>17 A. Circle what was around --</p> <p>18 Q. What was in existence?</p> <p>19 A. From this slide, obviously?</p> <p>20 Q. Yeah, right. So you talk about</p> <p>21 webinars, that's new technology, right?</p> <p>22 A. Yeah. But how are we defining "new"</p> <p>23 cause --</p> <p>24 Q. Right. So that's a good question.</p> <p>25 That was the next question I was going ask you.</p>	<p>1 Q. How regularly were they used in 2006?</p> <p>2 A. I have no recollection how many</p> <p>3 webinars we did that year. I know some years we did</p> <p>4 more than others. That's true.</p> <p>5 Q. Okay. E-modules?</p> <p>6 A. Yes, we had those.</p> <p>7 Q. How long has the E-module been around</p> <p>8 for?</p> <p>9 A. I don't recall. Unfortunately, I</p> <p>10 don't recall when it started.</p> <p>11 Q. Approximately?</p> <p>12 A. It could have been -- I was taking</p> <p>13 E-modules when I was a salesperson. So Prof Ed</p> <p>14 events I imagine that type of technology was there.</p> <p>15 Q. Preceptorships, proctorships, those</p> <p>16 were around before?</p> <p>17 A. Yes.</p> <p>18 Q. Do you when they started?</p> <p>19 A. They've been around for as long as I</p> <p>20 can imagine.</p> <p>21 Q. You said module here, you don't know</p> <p>22 where that started?</p> <p>23 A. Which one?</p> <p>24 Q. Model?</p> <p>25 A. Hands-on model labs?</p>
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<p>1 You said that --</p> <p>2 A. Well, I can tell you -- well, go</p> <p>3 ahead. Why don't you ask me the question.</p> <p>4 Q. You said the surgical simulation was</p> <p>5 new --</p> <p>6 A. Right, that wasn't available when I</p> <p>7 started.</p> <p>8 Q. They started developing it four years</p> <p>9 ago you said --</p> <p>10 A. Yes.</p> <p>11 Q. -- but it was only recently ready?</p> <p>12 A. That's correct.</p> <p>13 Q. So let's say were there webinars two</p> <p>14 years ago?</p> <p>15 A. Yes.</p> <p>16 Q. Three years ago?</p> <p>17 A. Webinars have been happening for a</p> <p>18 while. I don't know, exactly, when we started doing</p> <p>19 them, though, the programs.</p> <p>20 Q. Okay. So you can't remember when</p> <p>21 webinars started?</p> <p>22 A. No. We've been doing them a while I</p> <p>23 can tell you that.</p> <p>24 Q. How often are the webinars used?</p> <p>25 A. I mean, regularly, yeah.</p>	<p>1 Q. Yeah.</p> <p>2 A. Those are just workshops. We have a</p> <p>3 hands-on model. We would do all sorts of labs.</p> <p>4 Q. Alright. And I'm running out of time</p> <p>5 and I did promise that I would try to get done</p> <p>6 before we run out of tape. So I'm going to do one</p> <p>7 thing real quick.</p> <p>8 Okay. You discussed Exhibit No. --</p> <p>9 A. You don't want me to circle anything,</p> <p>10 do you?</p> <p>11 Q. No.</p> <p>12 A. Okay.</p> <p>13 Q. So the surgical stimulation,</p> <p>14 ClinicalExpertise.com, Virtual World, are those</p> <p>15 relatively new?</p> <p>16 A. It depends if you say "relatively."</p> <p>17 It was probably four years, four or five years ago,</p> <p>18 maybe longer.</p> <p>19 Q. Not for the surgical simulation?</p> <p>20 A. Surgical simulation, no, that's</p> <p>21 probably two years.</p> <p>22 Q. And you said the Ethicon Learning</p> <p>23 Center, that's a new facility, right?</p> <p>24 A. Which one?</p> <p>25 Q. The Ethicon Learning Center --</p>

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<p>1 A. Yeah.</p> <p>2 Q. -- you said that's where the surgical</p> <p>3 stimulation is?</p> <p>4 A. Yeah, I don't know when we built</p> <p>5 that. It was before I was back living in Chicago, I</p> <p>6 think, when they built that.</p> <p>7 Q. Alright. Real quick. Just want to</p> <p>8 do Exhibit No. 744.</p> <p>9 THE VIDEOGRAPHER: I got to change</p> <p>10 tapes. You've got 30 seconds.</p> <p>11 The time is 5:21. This is the end of Disk</p> <p>12 No. 6. We are going off the record.</p> <p>13 (There is a discussion off the record.)</p> <p>14 (Recess taken 5:21 to 5:26 p.m.)</p> <p>15 THE VIDEOGRAPHER: The time now is</p> <p>16 5:26. This is the beginning of Disk No. 7. We are</p> <p>17 back on the record.</p> <p>18 Q. Okay. So I want to turn your</p> <p>19 attention to what was 744, the complication data,</p> <p>20 right?</p> <p>21 A. Yes.</p> <p>22 Q. We pulled it up on the board.</p> <p>23 Alright. So we've been talking about complication</p> <p>24 data for a little bit today. And this document</p> <p>25 shows the different complications and then shows US</p>	<p>1 misleading."</p> <p>2 The denominator comes from -- if you go back</p> <p>3 to Exhibit 744, the denominator is based on the</p> <p>4 number of procedures performed, right?</p> <p>5 A. I -- that's what the slide said. It</p> <p>6 dealt with the most significant complications and it</p> <p>7 had a number that they used based on, I presume,</p> <p>8 sales reporting.</p> <p>9 Q. So if the company puts information</p> <p>10 about -- so No. 1, if you have underreporting, that</p> <p>11 doesn't give you an accurate complication rate, but</p> <p>12 if you inflate the denominator, it also doesn't give</p> <p>13 you accurate information about complications,</p> <p>14 right?</p> <p>15 MR. COMBS: Object to the form.</p> <p>16 Q. If you only sold 600 products but you</p> <p>17 tell everybody that you sold 700,000 -- if you only</p> <p>18 sold 600,000 but you put in your denominator 700,000</p> <p>19 devices sold, that gives an inaccurate information</p> <p>20 about complication rates? It's underreported and</p> <p>21 it's inflate -- and the denominator is inflated</p> <p>22 because you added an extra hundred thousand, right?</p> <p>23 MR. COMBS: Objection to form.</p> <p>24 A. What is your question? You're</p> <p>25 adding --</p>
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<p>1 data, Ex-US data and the total and that's the</p> <p>2 reported complication which we've discussed as</p> <p>3 underreported and it shows a percentage to the</p> <p>4 right. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And that percentage number is the</p> <p>7 rate of complication, right, it's a rate that's</p> <p>8 being provided by the company to physicians?</p> <p>9 A. Yes, that's what I understand is the</p> <p>10 most reported complications on that slide, yes.</p> <p>11 Q. So go ahead and move to Exhibit 780</p> <p>12 real quick.</p> <p>13 MR. COMBS: I think that's 779.</p> <p>14 MR. THORNBURGH: 779, okay, sorry.</p> <p>15 Q. And so we've got Dennis Miller,</p> <p>16 right? January 2006 and he's talking about tables.</p> <p>17 He says -- and this is, you know, Dennis Miller to</p> <p>18 Dharini and a number of other folks and he's talking</p> <p>19 about a chart and he says, he's glad to see it's</p> <p>20 safe but he says that, "I know all companies make</p> <p>21 these tables with the same format from the MAUDE</p> <p>22 database, but all surgeons know that this column is</p> <p>23 a farce. Surgeons all over the country discuss it</p> <p>24 regularly. Placing a percentage on the chart that</p> <p>25 is based on an entirely false denominator is quite</p>	<p>1 Q. You agree with that, right? If you</p> <p>2 --</p> <p>3 A. I don't work in complaints nor do I</p> <p>4 know how they divide or what goes into figuring out</p> <p>5 complications. You need to check with our</p> <p>6 regulatory affairs and complaints department.</p> <p>7 MR. COMBS: They've already taken</p> <p>8 Dale Lamont's deposition for two days on that.</p> <p>9 Q. There's complication data that we</p> <p>10 discussed and it's throughout your custodial file.</p> <p>11 So, i mean, did anybody tell you that or did</p> <p>12 you ever go and confirm before you shared this</p> <p>13 information with physicians through the Professional</p> <p>14 Education program, did you ever go through and</p> <p>15 confirm that the number of devices that were being</p> <p>16 sold that was being reported in the denominator was</p> <p>17 accurate?</p> <p>18 MR. COMBS: Object to the form.</p> <p>19 A. No, I didn't. That was not my job.</p> <p>20 It had been reviewed by our copy review team and</p> <p>21 others in the company and regulatory and medical</p> <p>22 affairs and many other people that are more equipped</p> <p>23 to analyze this data and that's -- no, I never did</p> <p>24 question that.</p> <p>25 Q. But you agree with me it's simple</p>

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<p>1 math, if you add to the denominator, it makes the</p> <p>2 risk lower or appear to be lower?</p> <p>3 A. No, I wouldn't agree with you</p> <p>4 because I can't --</p> <p>5 Q. You can't do the math?</p> <p>6 A. I don't associate risk with numbers</p> <p>7 and playing with numbers without knowing how to</p> <p>8 calculate risk. I don't -- it's not my job to</p> <p>9 calculate risk.</p> <p>10 MR. THORNBURGH: Okay. Alright.</p> <p>11 Let's get out of here subject to the questions you</p> <p>12 have.</p> <p>13 MR. COMBS: Yes, very brief.</p> <p>14 EXAMINATION BY MR. COMBS:</p> <p>15 Q. Mr. Pattyson, in regard to</p> <p>16 Exhibit 790, were there similar criteria that were</p> <p>17 used for the preceptees for the DVD products?</p> <p>18 A. Yes.</p> <p>19 MR. THORNBURGH: Objection.</p> <p>20 Q. How do you know that?</p> <p>21 A. Aside from talking about them at</p> <p>22 meetings we were -- I probably saw them in slides</p> <p>23 and various places where we discussed the same</p> <p>24 criteria required for all our events.</p> <p>25 Q. And let me ask you a question about</p>	<p>1 MR. COMBS: No further questions.</p> <p>2 MR. THORNBURGH: I don't have any</p> <p>3 follow-up questions.</p> <p>4 MR. COMBS: Thank you.</p> <p>5 THE VIDEOGRAPHER: The time is now</p> <p>6 5:33. This is the end of Disk No. 7. And this</p> <p>7 concludes today's deposition. We are now off the</p> <p>8 record.</p> <p>9 (Time noted: 5:33 p.m.)</p>
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<p>1 779, the document that you were just questioned</p> <p>2 about.</p> <p>3 In that e-mail, does Dr. Miller reference</p> <p>4 right in the e-mail itself that surgeons discuss</p> <p>5 this fact about complication rates?</p> <p>6 A. Yeah. It says, surgeons all over the</p> <p>7 country discuss it regularly.</p> <p>8 Q. And you said that you were at</p> <p>9 Professional Education events where it was, in fact,</p> <p>10 discussed about whether complication rates were</p> <p>11 underreported?</p> <p>12 A. That's correct, yes.</p> <p>13 Q. Now, were there also other ways in</p> <p>14 which complication rates were transmitted to</p> <p>15 preceptees?</p> <p>16 A. They can find that information out</p> <p>17 themselves. There is literature, clinical, you</p> <p>18 know, yes.</p> <p>19 Q. And literature was provided to</p> <p>20 preceptees, wasn't it?</p> <p>21 A. Correct.</p> <p>22 Q. And information regarding RCT's</p> <p>23 was -- randomized control trials, was provided to</p> <p>24 preceptees also too, right?</p> <p>25 A. Yes.</p>	<p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 I, SILVIA P. WAGE, a Certified Court</p> <p>4 Reporter, Certified Realtime Reporter, Registered</p> <p>5 Professional Reporter and Notary Public do hereby</p> <p>6 certify that, pursuant to notice, the deposition of</p> <p>7 BARTHOLOMEW P. PATTYSON, was duly taken at RIKER</p> <p>8 DANZIG SCHERER HYLAND PERETTI, LLP, Headquarters</p> <p>9 Plaza, One Speedwell Avenue, Conference Room 9A,</p> <p>10 Morristown, New Jersey, on Thursday, July 11, 2013,</p> <p>11 commencing at 8:43 a.m. before me.</p> <p>12 The said witness, BARTHOLOMEW P.</p> <p>13 PATTYSON, was first duly sworn by me according to</p> <p>14 law to tell the truth, the whole truth and nothing</p> <p>15 but the truth and thereupon did testify as set forth</p> <p>16 in the above transcript of testimony. The testimony</p> <p>17 was taken down stenographically by me.</p> <p>18 I do further certify that the above</p> <p>19 deposition is full, complete and a true record of</p> <p>20 all the testimony given by the said witness.</p> <p>21</p> <p>22</p> <p>23 SILVIA P. WAGE, a Certified Court</p> <p>24 Reporter, Certified Realtime Reporter,</p> <p>25 Registered Professional Reporter and Notary</p> <p>Public</p> <p>Dated: July 21, 2013</p>

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1 INSTRUCTIONS TO WITNESS	1 ACKNOWLEDGMENT OF DEPONENT
2	2
3 Please read your deposition over	3 I, _____, do
4 carefully and make any necessary corrections. You	4 hereby certify that I have read the
5 should state the reason in the appropriate space on	5 foregoing pages, 302-309 and that the same
6 the errata sheet for any corrections that are made.	6 is a correct transcription of the answers
7 After doing so, please sign the	7 given by me to the questions therein
8 errata sheet and date it. It will be attached to	8 propounded, except for the corrections or
9 your deposition.	9 changes in form or substance, if any,
10 It is imperative that you return the	10 noted in the attached Errata Sheet.
11 original errata sheet to the deposing attorney	11
12 within thirty (30) days of receipt of the deposition	12
13 transcript by you. If you fail to do so, the	13
14 deposition transcript may be deemed to be accurate	14
15 and may be used in court.	15 Subscribed and sworn
16	16 to before me this
17	17 _____ day of _____, 20____.
18	18 My commission expires: _____
19	19
20	20 Notary Public
21	21
22	22
23	23
24	24
25	25

  

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1 ERRATA SHEET FOR THE TRANSCRIPT OF:
2 Case Name: IN RE: ETHICON, INC., PELVIC REPAIR
3 SYSTEM (MDL NO. 2327)
4
5 Dep. Date: JULY 11, 2013
6
7 Deponent: BARTHOLOMEW P. PATTYSON VOL. II
8
9 PAGE LINE CHANGE
10 _____
11 REASON: _____
12 _____
13 REASON: _____
14 _____
15 REASON: _____
16 _____
17 REASON: _____
18 _____
19 REASON: _____
20 _____
21 REASON: _____
22 _____
23 REASON: _____
24 _____
25 REASON: _____

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